

## Clause 1 and Schedule 1: Carried-forward losses

### Summary

1. This clause and Schedule reform the tax treatment of certain types of carried-forward loss for corporation tax purposes. The legislation takes effect from 1 April 2017.
2. The reform has two aspects. It provides more flexibility in how losses arising on or after 1 April 2017 can be relieved when they are carried forward; and it limits the amounts against which all carried-forward losses (whenever they arise) can be relieved to 50% of profits, subject to an annual allowance.
3. Schedule 1 is set out in 12 parts. Part 1 creates separate rules for losses arising before 1 April 2017, and for losses arising on or after 1 April 2017. Part 2 sets out how the restriction of relief to 50% of profits will operate. Part 3 sets out a new form of group relief for carried-forward losses. Part 4 contains specific rules for insurance companies. Part 5 contains specific rules for creative industries. Part 6 contains specific rules for oil and gas activities. Part 7 contains rules for companies carrying out oil contractor activities. Part 8 contains rules relating to transferred trades. Part 9 contains anti-avoidance provisions. Part 10 contains rules specific to the Northern Ireland rate of corporation tax. Part 11 contains minor and consequential amendments. Part 12 contains commencement provisions.

### Details of the clause and schedule

4. Clause 1 introduces Schedule 1. Clause 1 also includes a power to make further consequential amendments by statutory instrument.

### Schedule 1:

#### Part 1: Amendment of general rules about carrying forward losses

5. Paragraphs 1 to 3 amend the heading and introduction to Chapter 16 of Part 5 of the Corporation Tax Act (CTA) 2009. Chapter 16 will now apply only to non-trading loan relationship deficits arising before 1 April 2017, or arising at any time to companies that are charities.
6. Paragraph 4 inserts new Chapter 16A, comprising new sections 463A to 463I, into Part 5 of CTA 2009.

7. New section 463A introduces Chapter 16A, which applies to non-trading loan relationship deficits arising in accounting periods beginning on or after 1 April 2017 where the company that incurred the deficit is not a charity.
8. New section 463B allows a claim to be made for the whole or part of the deficit arising to be set against profits of any description for the period in which the deficit arises, or to be carried back and set against profits of earlier accounting periods.
9. New section 463C specifies the time limit for making a claim under section 463B, which is 2 years after the end of the period in which the deficit arose, or such further period as an officer of Her Majesty's Revenue and Customs (HMRC) allows. Section 463C also permits a different claim to be made for different parts of the non-trading deficit for the period.
10. New section 463D applies where the claim under section 463B is for the deficit to be set off against profits for the period in which the deficit arose. The claim must specify the amount of the deficit to be relieved and identify the profits against which it is to be set. Section 463D(4) contains a priority rule - relief under this section is given before any relief for certain losses arising in the year or carried back to the accounting period from a later period. Section 463D(5) prevents relief under this section against ring fence profits in the oil and gas sector, as defined in Part 8 of CTA 2010, or against ring fence profits of oil contractors as defined in Part 8ZA of CTA 2010.
11. New section 463E sets out what happens when a claim is made under section 463B to carry back a deficit to an earlier period. Relief can only be given for an amount that is the smaller of the deficit remaining after relief under section 463D and the company's relievable profits (defined in new section 463F).
12. New section 463F sets out what profits can be relieved under section 463E by carrying back a non-trading loan relationship deficit to an earlier period, which must be a period ending within the period of 12 months immediately before the period in which the deficit arises (see section 463F(2) to (4)). Those profits are profits chargeable under Part 5 of CTA 2009 (loan relationships), but reduced by any relief which must be given in priority (see section 463F(5) for the list of those reliefs).
13. New section 463G sets out how relief is given in later periods for any unrelieved deficits, after giving relief against profits of the same or an earlier period and after any amounts surrendered as group relief. The company may claim to set off some or all of the remaining deficit against its total profits of the next period. The claim must be made within 2 years of the end of the accounting period for which the claim is made or such further period as an officer of HMRC allows. The company does not have to claim the whole amount, and any amount remaining is carried forward and considered under section 463I. Relief under this section cannot be given against profits arising under Part 8 of CTA 2010 or Part 8ZA of CTA 2010.
14. Section 463G(12) and (13) sets out specific rules in the case of a deficit that is partly a "shock loss" arising to a company that is a Solvency 2 insurance company.
15. New section 463H applies where an investment business becomes small or negligible in the period in which a deficit arose or a later period. A non-trading loan

relationship deficit may be carried forward and set only against non-trading profits in future accounting periods. Section 463H also applies where the accounting period immediately following the period in which the deficit arose is an excluded accounting period of a general insurance company, or where the amount that would otherwise be eligible to be carried forward is wholly a “shock loss”.

16. New section 463I applies where an amount is carried forward under section 463G but is not set off against profits of the first period in which those deficits could be relieved or surrendered as group relief. Any remaining amount can be the subject of a claim by the company under section 463G for set-off against total profits in a later period. This applies where in the later period the company has neither ceased to be a company with investment business, nor, where it was a company with investment business immediately before the beginning of the later period, had an investment business become small or negligible. Again, the company does not have to claim the full amount available.
17. Paragraph 5 amends section 753(3) of CTA 2009, part of the Intangible Fixed Assets legislation. It introduces a different term so that amounts of non-trading losses on intangible fixed assets that are carried forward to a later period can be treated separately and given the correct treatment under the new rules. Under current rules a non-trading loss on intangible fixed assets is carried forward and treated as a debit arising in a later period and aggregated with any non-trading intangible credits of the later period. This amendment has the effect that a non-trading loss on intangible fixed assets that is not used in an accounting period will be carried forward and set against a company's total profits of a later accounting period under the rules for carried-forward losses, instead of being aggregated with any intangible non-trading credits of a later accounting period. Where the company ceases to have investment business, its non-trading losses on intangible fixed assets may no longer be carried forward and claimed against future profits.
18. Paragraph 6 amends section 1223 of CTA 2009 (expenses of management of an investment business).
19. Paragraph 6(2) amends section 1223(1)(b) of CTA 2009 to bring within the scope of section 1223 amounts brought forward from an earlier period where a company is unable to, or decides not to, claim all of those amounts in the current period. This then permits any remaining unclaimed amounts to be carried forward to a later period under section 1223(3). Paragraph 144 makes a further amendment to section 1223(1)(b) of CTA 2009. Taken together these amendments ensure that section 1223 applies correctly where expenses of management are eligible to be carried forward and set against total profits of a later accounting period.
20. Paragraph 6(3) inserts new subsections (3A) to (3E) into section 1223 of CTA 2009. Subsections (3B) to (3D) require that a claim must be made to deduct excess expenses of management in the next accounting period, but the claim need not be made for the full amount available. Before this change, a claim was not required. Where expenses of management are carried forward to a later period, subsection (3E) removes the requirement in section 1219(1A) of CTA 2009 that those expenses of management

must be set off before any other deductions against total profits.

21. Paragraph 7 introduces amendments to Chapter 2 of Part 4 of CTA 2010 (trade losses).
22. Paragraph 8 amends the wording of section 36(1) of CTA 2010 so that it refers to all forms of relief for trade losses.
23. Paragraph 9 amends the heading before section 37 of CTA 2010.
24. Paragraph 10 amends section 45 of CTA 2010, which provides relief for trade losses carried forward against trade profits of a subsequent period, so that it applies only to losses arising before 1 April 2017.
25. Paragraph 10(5) introduces new subsections (4A) to (4C) into section 45. These new subsections allow a claim to be made to specify that an amount of trade profits of an accounting period beginning on or after 1 April 2017 are not to be reduced by a trade loss carried forward. The claim must be made within two years after the end of the accounting period specified, or within such further period as an officer of HMRC allows.
26. Paragraph 11 inserts new sections 45A to 45H into Part 4 of CTA 2010.
27. New section 45A provides for relief for a trade loss where all or part of the loss is not relieved against total profits in the period of the loss nor surrendered as group relief in that period. Any remaining part of the loss is carried forward (section 45A(4)) and may, on the making of a claim, be set against total profits of a later period (section 45A(5)).
28. Section 45A(2) excludes from section 45A any losses arising in a “ring fence trade” within Part 8 of CTA 2010 (oil activities).
29. Section 45A(3) imposes restrictions such that a trade loss may not be carried forward to the later period and set against total profits if:
  - The trade became small and negligible in the period in which the loss arose;
  - Relief was unavailable in the year the loss arose under section 37 CTA 2010 because of certain specific exclusions, for example, section 37(5) CTA 2010 (trade carried on wholly abroad), section 44 CTA 2010 (trade not carried on a commercial basis), section 1209 CTA 2009 (losses of a separate film trade in a pre-completion period); or,
  - Relief would be unavailable under section 37 CTA 2010 for any loss that arose in the period to which the claim relates because in that period, the trade was not carried on commercially (section 44 CTA 2010).
  - The loss is made by an insurance company and is a shock loss
30. Where one or more of these conditions applies, the loss may be available to be carried

forward and set against profits from the same trade under new section 45B of CTA 2010.

31. Section 45A(7) sets out that the claim must be made within two years after the end of the later period or within such further period as an officer of HMRC allows.
32. New section 45B applies where a trade loss arises on or after 1 April 2017, the trade is carried on in the next accounting period, but the conditions for carrying forward the loss and claiming relief against total profits in section 45A are not met. The amount of the unrelieved loss is carried forward and relief given against profits of the same trade of the next accounting period (section 45B(3) and (4)). The company may however make a claim within two years of the end of that next accounting period for any part of that loss not to be relieved against the trade profits of that period (section 45B(5)).
33. New section 45C allows a trade loss carried forward under section 45A that remains unrelieved to be carried forward to a further period in which the trade is carried on, and a claim to be made under section 45A for the whole or a part of that loss to be relieved against the company's total profits of that further period.
34. Section 45C(2) specifies that the loss may not be carried forward to that further period and set against total profits if:
  - The trade became small or negligible in the period from which the loss was carried forward under section 45A; or
  - Relief would be unavailable under section 37 of CTA 2010 for any loss that arose in the further period because, in that further period, the trade was not carried on commercially (section 44 of CTA 2010).

Where either of these conditions is not satisfied, relief may be considered under new section 45D.

35. New section 45D applies where a trade loss carried forward under section 45A CTA 2010 remains unrelieved, but the loss cannot be carried forward to a further period and relief claimed against total profits under section 45A because the conditions in section 45C(2) of CTA 2010 (outlined above) are not met. Providing the trade continues in that further period, the amount of the unrelieved loss is carried forward under section 45B and relief given against profits of the same trade of the further accounting period. The company may make a claim under section 45B for any part of that loss not to be relieved against the trade profits of that further period.
36. New section 45E allows a trade loss carried forward under section 45B that remains unrelieved to be carried forward to a further period in which the trade is carried on, and relief given against profits of the same trade of that further accounting period under section 45B (see section 45E(2)). The company may make a claim under section 45B for any part of that loss not to be relieved against the trade profits of that period.
37. New section 45F introduces a form of terminal loss relief where trade losses are carried forward to an accounting period in which a trade ceases. Any unrelieved

trade losses may be set against profits of the 3-year period ending with the end of the period in which the trade ceased (section 45F(3)). Relief cannot be claimed under this section for the period in which the loss arose, any prior period and any period beginning before 1 April 2017 (section 45F(4)). The loss is set off either against profits of the same trade where losses are carried forward under section 45 or 45B, or against total profits where losses are carried forward under section 45A (section 45F(7)). The claim must be made within two years after the end of the accounting period in which the trade ceases, or within such further period as an officer of HMRC allows (section 45F(6)).

38. New section 45G sets out how to compute the relief where an accounting period falls partly within the 3 year period set out in section 45F.
39. New section 45H is an anti-avoidance rule to counteract arrangements involving a cessation of a trade and a transfer of all or part of the trade to a party outside the charge to corporation tax. The section denies relief under section 45F where the conditions are met. This rule is the equivalent to section 41 of CTA 2010, which applies to the existing relief for terminal losses.
40. Paragraph 12 introduces amendments to Chapter 4 of Part 4 of CTA 2010 (losses from a property business).
41. Paragraph 13 amends section 62 of CTA 2010. It introduces new subsections (5A) to (5D) which require a claim to be made for these types of losses to be carried forward and set against profits of a later period, and which also permit the company to claim some or all of the amount available.
42. Paragraph 14 amends section 63 of CTA 2010. This section applies where a company ceases to carry on a UK property business, but the company continues to carry on an investment business after the UK property business has ceased. Any unrelieved losses from the property business can be carried forward and relieved as expenses of management of the investment business. New subsections (4) to (7) are inserted. A claim will now be required for these carried-forward amounts to be set against later profits. The company may claim some or all of the amount available. In addition, the priority rule in section 1219(1A) of CTA 2009 is disapplied where expenses of management are carried forward to a later period so that the company will not be required to set off those expenses of management in priority to other reliefs.

## **Part 2: Restriction on deductions in respect of carried-forward losses**

43. Paragraph 15 introduces amendments to CTA 2010.
44. Paragraph 16 inserts a new Part 7ZA, comprising new sections 269ZA to 269ZZB, into CTA 2010.
45. New section 269ZA gives an overview of the new Part 7ZA, which provides for

restrictions in the amount of certain deductions that can be made in computing taxable total profits.

46. New section 269ZB sets out how the new restriction applies where trading losses are carried forward and can only be set against later profits from the same trade (section 269ZB(2)). These are all trade losses arising before 1 April 2017 (pre-1 April 2017 losses) and certain types of trade losses arising on or after 1 April 2017 (post-1 April 2017 losses) such as those arising from uncommercial activities. The maximum that can be deducted under this section (the “relevant maximum”) is set out in section 269ZB(5). It is the sum of the proportion (if any) of the annual £5m allowance that the company has designated to be set against trading profits plus 50% of the company’s trading profits in excess of that proportion of the annual allowance (“relevant trading profits”, defined in new section 269ZF). Section 269ZB(8) ensures that the trading profits deductions allowance cannot exceed the difference between:
- the company’s total deductions allowance available for the period, and
  - the non-trading deductions allowance (see new section 269ZC) plus the BLAGAB trade profits deductions allowance (see new section 124D of FA 2012).
47. New section 269ZC has the same effect as section 269ZB, but in respect of non-trading loan relationship deficits that can be carried forward and set only against non-trading profits of later periods. These are pre-1 April 2017 non-trading loan relationship deficits, and deficits arising at any time to a company that is a charity. Section 269ZC(6) ensures that the non-trading deductions allowance cannot exceed the difference between:
- the company’s total deductions allowance available for the period, and
  - the trading deductions allowance (section 269ZB) plus the BLAGAB trade profits deductions allowance (section 124D of FA 2012).
48. New section 269ZD sets out how the amount of profit that can be relieved by carried-forward losses is determined where relief is given against total profits of a later period. The maximum amount of carried-forward losses that can be set against total profits is the difference between the “relevant maximum” and the amounts given under section 269ZB, sections 457(3) and 463H of CTA 2009, and sections 124(5), 124A(5) and 124C(6) of FA 2012 (see section 269ZD(2)). The types of carried-forward relief involved (“relevant deductions”) are set out at section 269ZD(3). The “relevant maximum” (section 269ZD(4)) is the sum of the company’s share of the annual deductions allowance plus 50% of the company’s “relevant profits” (section 269ZD(5), section 124D of FA 2012 and new section 269ZF).
49. Section 269ZD(5) sets out how to compute “relevant profits” for an accounting period. “Relevant profits” are the sum of “relevant trading profits”, “relevant non-trading profits” (both defined in new section 269ZF) and “relevant BLAGAB trade profits” (see section 124D of FA 2012).

50. New section 269ZD(6) specifies that the amount of a company's deductions allowance is computed in accordance with either new section 269ZR where the company is a member of a group, or new section 269ZW otherwise.
51. New section 269ZE applies only to insurance companies and provides a restriction on deductions from total profits.
52. Section 269ZE(1) amends section 269ZD(2) where certain conditions are met so that the amount of relevant deductions arising for the accounting period cannot exceed the modified loss cap as determined under section 269ZE(6). Section 269ZE(2) sets out the conditions, which are:
- The company carries on basic life assurance and general annuity business and is charged to corporation tax under section 68 of FA 2012 and has an I minus E profit for the accounting period,
  - The policyholders share of the I minus E is not the whole of the I minus E profit
  - The "adjusted shareholders' I minus E profits for the accounting period is less than the "BLAGAB-related loss capacity".
53. Section 269ZE(4) defines "adjusted shareholders' I minus E" as being equal to the shareholders' share of the I minus E profit (see section 269ZE(9)) less any "excess capacity". "Excess capacity" is defined in section 269ZE(8) and is the amount by which the step 2 amount within section 269ZF(3) is less than the step 2 amount would have been had total profits been modified to exclude only the policyholders' share of the I minus E profit (see section 269ZE(10)) for the accounting period rather than the whole of the I minus E profit for the accounting period.
54. Section 269ZE(4) defines "BLAGAB-related loss capacity" as being equal to  $A + B - C$  where:
- A is 50% of the company's relevant BLAGAB trade profits for the accounting period,
  - B is the company's BLAGAB trade profits deduction allowance for the period,
  - C is the total of any carried forward BLAGAB trade losses deducted by the company for the accounting period under sections 124(5), 124A(5) and 124C(6).
55. Section 269ZE(5) determines how the modified loss cap is calculated using the following steps:
- Step 1 requires the "basic loss cap" to be found. Section 269ZE(6) defines this as the difference referred to in the opening words of section 269ZD(2),



- Step 2 provides that the basic loss cap is reduced by the BLAGAB-loss related capacity (as determined by section 269ZE(5)),
  - Step 3 provides that the amount that arises from steps 1 and 2 is increased by the amount if the adjusted shareholders' I minus E profit (as determined by section 269ZE(4)). The result provides the amount of the modified loss cap and the amount of relevant deductions that can be made for the accounting period.
56. New section 269ZF sets out how to calculate "relevant trading profits" and "relevant non-trading profits" for the purposes of section 269ZD. "Relevant trading profits" is the difference between "qualifying trading profits" and the "trading profits deductions allowance" (section 269ZF(1)); and "relevant non-trading profits" is the difference between "qualifying non-trading profits" and the "non-trading profits deductions allowance" (section 269ZF(2)). In neither case can the "relevant" profit be less than zero. Both types of "qualifying profit" are computed in accordance with section 269ZF(3) and (4).
57. Section 269ZF(3) contains 5 steps:
- Step 1 is to compute the company's "modified total profits" (as defined in section 269ZE(4)).
  - Step 2 is to identify any amounts that can be relieved against total profits (such as group relief for current year losses), ignoring any "excluded deductions": see section 269ZE(5).
  - Step 3 is to divide the profits computed under step 1 into "trade profits" and "non-trade profits".
  - Step 4 is then to apply the reliefs identified at step 2 to reduce the profits at Step 3, but without reducing any amount below zero. This gives the final amounts of the company's "qualifying trading profits" and "qualifying non-trading profits" (step 5).
58. Section 269ZF(4) sets out the modifications to be made to total profits for the purposes of the loss restriction calculation. The modifications exclude from the calculation of total profits for these purposes the following:
- a. Any income from distributions within the scope of Part 9A of CTA 2009. However, where that income constitutes trading income within Part 3 of CTA 2009 it will not be excluded from total profits for the purposes of computing the carried-forward losses that the company can use;
  - b. Any oil ring-fence profits or oil contractor ring-fence profits; and
  - c. Any "I minus E" profit of an insurance company, but not BLAGAB trade profits.

- d. pre-1 April 2017 trade losses, or post-1 April 2017 trade losses that can be set only against profits of the same trade (for example those arising from uncommercial activities), with the exception of certain losses that are excluded from the restriction (losses of a film trade, television programme trade, video game trade, theatrical trade, orchestral trade, UK or EEA furnished holiday lettings business, insurance company shock losses, oil ring fence losses and oil contractor ring fence losses,);
  - e. restricted deductions relating to oil activities under section 303B or section 303D of CTA 2010 (inserted by Part 6); and
  - f. pre-1 April 2017 non-trading deficits from loan relationships.
59. Section 269ZF(5) sets out the “excluded deductions” for the purposes of the calculation at step 2 in section 269ZF(3). These are deductions that are subject to the loss restriction and losses that arose in a period earlier than the period in which the loss or other amount arose.
60. New section 269ZG sets out that accounting periods of general insurance companies are excluded from the restrictions in sections 269ZB to 269ZE when conditions A and B are met (section 269ZG(2)). When these conditions are met the company can deduct its losses against its profits of that accounting period in full.
- Condition A is comprised of three parts. The first is that the company is subject to insolvency procedures at the end of the accounting period. Second, immediately before the company became subject to those procedures it was unable to pay its debts as they fell due. Finally, at that date there was no realistic prospect of the company writing new insurance business because of its liabilities in respect of qualifying latent claims.
  - Condition B is that at the end of the accounting period there is no realistic prospect that the company will write new insurance business because of its liabilities in respect of qualifying latent claims (section 269ZG(4)).
  - A company is a general insurance company if it is authorised to effect or carry out contracts of general insurance as defined in section 269ZG(8). However, friendly societies and insurance special purpose vehicles within the meaning of section 139 of FA 2012 are not general insurance companies (section 269ZG(7)).
  - Liabilities for the purposes of Conditions A and B include both contingent and prospective liabilities (section 269ZG(8)).
61. New section 269ZH sets out the circumstances in which a company is considered to be subject to insolvency procedures for the purposes of section 269ZG. There are four circumstances – the company is in liquidation, in administration, or in receivership;

or a “relevant scheme” has effect in relation to the company. A relevant scheme means a scheme or arrangement as defined in the Companies Act or if the company is resident outside of the United Kingdom an equivalent scheme of that country (section 269ZH(5)).

62. New section 269ZI defines qualifying latent claims for the purposes of section 269ZG. A claim is a qualifying latent claim if it meets conditions A to C.

- Condition A is that the claim relates to a risk that could not reasonably have been foreseen by the company at the time it wrote the insurance policy, and it is likely that the terms of the policy would have been significantly different if it was aware of this risk. For example, the health risk of exposure to asbestos was not known in the 1970s and was consequently not taken into account in employer liability policies written at that time. However, the condition will not be met when the company was aware of that type of claim but failed to adequately anticipate the scale or cost of claims.
- Condition B is that the latency period of the claim is greater than 10 years. This is the period between the insured event and the notification of the claim. It is calculated by taking the mean period for each type of claim satisfying Condition A.
- Condition C is that the insurance policy, or part of the insurance policy, under which the claim was made is either an employer’s liability policy or a public or product liability policy. These terms are defined in section 269ZI(9). An employer’s liability policy is a policy insuring against the risk of an employer incurring liabilities to their employees in the course of their business. A public or products liability policy is a policy that insures a business against the risk of incurring liabilities to third parties arising in the course of its business. This would include for instance liabilities arising from its products or operations. The condition will be met if the claim is made under a general liability policy so long as part of the policy covers employer’s liability or public or product liabilities.
- For the purposes of this section it does not matter whether the claim has already been notified or not.

63. New section 269ZJ sets out that shock losses made by an insurance company are not restricted under this Part. An insurance company is defined in new section 269ZP. The meaning of shock loss is defined in new section 269ZK.

- a. Section 269ZI(1) sets out that shock losses carried forward to an accounting period and deducted from trading profits under section 45B are excluded from the calculation of relevant trading profits in section 269ZB(3). This means that an insurance company can deduct shock losses up to the amount

of its trading profits.

- b. Section 269ZI(2) sets out that shock losses carried forward to an accounting period and deducted under section 463H of CTA09 are excluded from the calculations of relevant non-trading profits (section 269ZC). This means that an insurance company can deduct shock losses up to the amount of its non-trading profits.
  - c. Section 269ZI(3) sets out that shock losses are not relevant deductions for the purpose of section 269ZD.
64. New section 269ZK provides for an insurance company to claim that losses of an accounting period are shock losses to the extent that they arose in a solvency shock period (defined in new section 269ZM). The company must specify which losses are included in the claim and the solvency shock period. This can be any 12 month period provided it is a solvency shock period. The company can make a claim in respect of more than one solvency shock period. The ability to make a claim is subject to the conditions in section 269ZK(3). The first condition is that the accounting period in which the loss specified in the claim arose (the loss making period) began on or after 1 April 2017 (paragraph 190 provides rules for determining the accounting periods for periods that straddle 1 April 2017). Second, that loss must be capable of being carried forward to an accounting period. Finally, there must be one or more days in common between the loss making period and the 12 month period specified in the claim. If these conditions are satisfied then the loss specified in the claim will be a shock loss. If the loss making period and the 12 month solvency shock period are not the same then the losses of the accounting period are apportioned by the number of days in the accounting period that fall within the solvency shock period (section 269ZK(6)). The result is the shock loss. Where there is more than one solvency shock period, and part of these overlap, section 269ZK(2) ensures that the overlapping days are not included twice in the time apportionment. If time apportionment produces a result that is unjust or unreasonable then the apportionment should be made on a just and reasonable basis.
65. New section 269ZL sets out the requirements for a claim to be valid. The claim must state the company's solvency capital requirement at the beginning of the solvency shock period, as well as the company's shock loss threshold (new section 269ZN) and solvency loss (new section 269ZO). The company must also submit with the claim information corresponding to the information it submits in its regulatory returns (section 269ZL(1)(b)(i)) and a report provided by the chief actuary. For a third country insurance undertaking the report should be prepared by a person with equivalent functions to the chief actuary. In this report the chief actuary must confirm that the information submitted with the return is prepared in accordance with the relevant requirements (defined in section 269ZL(3)) for its report on solvency and financial condition and that the calculations of the shock loss threshold and solvency loss comply with sections 269ZN and 269ZO.
66. New section 269ZM defines a solvency shock period. This is any 12 month period in which the insurance company's solvency loss exceeds its shock loss threshold. The

threshold will be passed when the reduction in the insurance company's basic own funds exceeds 90% of its solvency capital requirement, which represents a 1 in 100 year loss event. Both the movement in basic own funds and the solvency capital requirement are subject to adjustments outlined in sections 269ZN and 269ZO. These adjustments ensure the comparison is like for like so that less severe loss events do not exceed the shock loss threshold.

67. New section 269ZN defines the shock loss threshold. The threshold is equivalent to 90% of the shareholder's part of the company's solvency capital requirement. It is calculated by determining the company's solvency capital requirement. If this includes an adjustment for loss absorbing capacity of deferred taxes (see section 269ZN(7)) then this should be calculated under the assumption that the losses are shock losses and not subject to the restrictions under this Part. The result is the company's adjusted SCR. The next step is to calculate the deductible amount for each of the company's relevant ring fenced funds (defined in section 269ZN(2)). This is the lesser of the policyholder's basic own funds within the fund at the beginning of the 12 month period and the notional solvency capital requirement (section 269ZP) of that fund. The policyholder's basic own funds is found by deducting the value of future transfers to attributable to shareholders and certain restricted own-fund items from the total basic own funds within the relevant ring-fenced fund. These restricted own-fund items are those which are certified by the with-profits actuary as meeting the conditions in subsection (4). These conditions reflect items of value that the company could withdraw from the relevant ring-fenced fund in certain circumstances. The total of the deductible amounts is then subtracted from the gross of tax SCR. This ensures that the shock loss threshold is reduced by any basic own funds in a with profits fund attributable to shareholders. However, if the with profits fund is under capitalised and the insurance company is required to support the fund in accordance with Solvency II then the company's capital providing this support is still included in the shock loss threshold. After the deductible amount is subtracted, the shock loss threshold is the resulting figure multiplied by 90%. If an insurance company is a third country insurance undertaking as defined in new section 269ZP then it should calculate its shock loss threshold as though it were an insurance undertaking. This means it will have to calculate its Solvency Capital Requirements in accordance with the Solvency II directive and make the relevant adjustments.
68. New section 269ZO sets out how to calculate the company's solvency loss. The solvency loss is the reduction in basic own funds over the 12 month period. It is calculated by deducting basic own funds at the end of the period from those at the start of the period. In order to ensure that the calculation of the solvency loss is aligned with the calculation of the threshold (in section 269ZN), the calculation of basic own funds (in section 269ZO(2)) must be determined on a basis that fairly represents the method that the company uses to calculate its solvency capital requirement. This ensures that the calculation in section 269ZO(2) only takes into account movements in basic own funds that would be taken account of in the company's solvency capital requirement calculation (section 269ZO(5)). For example, movements such as dividends or capital issues which are not attributable to losses modelled in the solvency capital requirement are removed from the calculation.

Movements in the risk margin and pension liabilities are also ignored because these are not included in the solvency capital requirement calculation. There are two further adjustments to the company's opening and closing basic own funds for the purposes of the comparison at subsection (2). Basic own funds within a with-profits fund that are attributable to policyholders are deducted from the company's opening and closing basic own funds. Basic own funds attributable to policyholders are calculated by deducting shareholder support arrangements (subsection 10(b)) and the value of future transfers attributable to shareholders. This ensures that only losses borne by shareholders are included in the solvency loss calculation. The second adjustment is that closing basic own funds is calculated on the basis that the 12 month period is a solvency shock period. This means that the value of the deferred tax assets created because of the solvency shock losses should not be restricted to 50%.

69. New section 269ZP provides definitions for sections 269ZI to 269ZO.
70. New section 269ZQ gives the Treasury the power to amend by regulation sections 269ZJ to 269ZP, and sections 124A to 124E of FA 2010. This power is limited to changes that become necessary in consequence of changes to financial regulation.
71. New section 269ZR sets out how to calculate the deductions allowance for a company that is part of a group. The group may allocate a share of the group's annual £5m allowance to the company (see new sections 269ZS to 269ZV) and in addition the company may have a proportion of its own annual allowance (for a part of a period when it was not a member of a group) - but in aggregate a company can never receive an allowance greater than £5m for any period of 12 months (section 269ZR(2)).
72. New section 269ZS sets out the arrangements for determining and allocating a group deductions allowance. The section enables a group to make a "group allowance nomination" whereby a nominated company is appointed by the members of a group (section 269ZS(1)(b)). All members of the group must agree to the nomination (section 269ZS(1)(b) and section 269ZS(6)). The nomination can take effect before the date it is made (see section 269ZS(5)). Where the nomination is in effect throughout an accounting period of the nominated company, the group will have a total allowance of £5m for that accounting period (section 269ZS(2)); otherwise the allowance is reduced proportionately (section 269ZS(3)). If the nominated company's accounting period is less than 12 months the allowance is again reduced proportionately (section 269ZS(4)).
73. Section 269ZS(7) sets out the circumstances in which the group allowance nomination ceases to have effect.
74. New section 269ZT sets out certain requirements for submission of a "group allowance allocation statement". The statement must be filed by the nominated company no later than 12 months after the end of the accounting period (section 269ZT(4)) or a later period if an officer of HMRC allows it (section 269ZT(5)).
75. New section 269ZU sets out the circumstances in which a revised group allowance

allocation statement may be submitted. The time limit for doing so is the later of:

- 12 months from the filing date for the company tax return for the nominee's accounting period, and
- the time when any enquiry into that return is finalised (section 269ZU(4)).

A revised allocation statement may be submitted at a later time if an officer of HMRC allows (section 269ZU(5)).

76. New section 269ZV sets out the requirements for what must be included in a group allowance allocation statement. The total amounts allocated must not exceed the "group deductions allowance" for the nominee's accounting period (section 269ZV(6)) and the amount allocated to a company must not exceed the proportion of that allowance due for the period in which the company is a group member (section 269ZV(5)). If the amounts allocated exceed these limits, the statement must be amended (section 269ZV(7) and (8)). If it is not amended, an officer of HMRC may make an amendment and must notify each company (section 269ZV(9) and (10)). The normal time limits for amendment of a company tax return do not apply where the amendment is a consequence of the submission of a group allowance allocation statement (section 269ZV(11)).
77. New section 269ZW provides for the deductions allowance for a company that is not a member of a group. The allowance is £5m for an accounting period of 12 months, reduced proportionately for any accounting period that is less than 12 months.
78. New section 269ZX increases a company's deductions allowance in certain circumstances where there has been a reversal of an onerous lease provision. Where a company's "specified profits" are greater than nil and a "relevant reversal credit" has been brought into account, then the company's deductions allowance for the accounting period is increased by the amount of the relevant reversal credit or, if lower, the amount of the specified profits. "Specified profits" means the sum of the company's total profits, calculated with the modifications in section 269ZF(4), plus any I-E profit of the accounting period.
79. New section 269ZY defines "relevant reversal credit". It is a credit or other income brought into account in respect of the "relevant reversal" of a "relevant onerous lease provision".
80. Section 269ZY(2) defines "relevant onerous lease provision". A provision in a company's accounts is a "relevant onerous lease provision" if it relates to a lease of land in which the company is the tenant, the provision is required for accountancy purposes as a provision for an onerous lease, and the lease was entered into at arm's length.
81. Section 269ZY(3) defines "relevant reversal". The reversal of a relevant onerous lease provision is a "relevant reversal" if the reversal is required for accountancy purposes due to an arrangement made at arm's length under which the tenant company's

obligations under the lease are varied or cancelled, section 269ZY(4) does not apply and at least one of conditions X, Y and Z in section 269ZY(7) is met. Section 269ZY(4) applies where the tenant company and the landlord are connected when the arrangement to amend the company's obligations is made, or the landlord who granted the lease and the tenant to whom the lease was granted were connected at the time the lease was granted.

82. Section 269ZY(5) gives a further definition of "relevant reversal" where the reversal would be a relevant reversal under section 269ZY(3) but for the tenant company and the landlord being connected. This definition applies where the tenant company and the landlord are in the same group of companies, with a group relationship having the meaning in section 152 of CTA 2010. The lease must be granted out of another lease, known as "the superior lease". The reversal is only a "relevant reversal" where it would have been a relevant reversal under section 269ZY(3) but for the connection test. Therefore the other conditions within section 269ZY(3) must be met by the arrangement for section 269ZY(5) to apply. The arrangement to vary or cancel the tenant company's lease must substantially reflect the arrangement made at arm's length by the landlord company in respect of its obligations under the superior lease. If section 269ZY(6) applies then the reversal is not a relevant reversal.
83. Section 269ZY(6) applies if the landlord or tenant company is connected to the landlord under the superior lease at the time that the arrangement to vary or cancel the obligations under the superior lease is made, or if the landlord who granted the superior lease and the tenant to whom that lease was granted were connected when the lease was granted. The combined effect of section 269ZY(5) and (6) is that where a group has a property management company that enters into leases with third parties, and then the property management company subsequently enters into leases with other companies in the group, the reversal of an onerous lease provision relating to the lease between the group companies can still be a "relevant reversal", subject to the other conditions being met, despite the tenant and landlord companies being connected..
84. Section 269ZY(7) sets out the conditions referred to in 269ZY(3). One of the following conditions must be met for the reversal of a relevant onerous lease provision to be a "relevant reversal":
- i. Condition X: it is reasonable to suppose that immediately before the tenant company entered into the arrangement varying or cancelling its obligations under lease, there was a material risk that at some time in the next 12 months the company would be unable to pay its debts as they fell due, and the sole or main purpose of the arrangement was to avert that risk.
  - ii. Condition Y is that the tenant company is in insolvent administration.
  - iii. Condition Z is that the tenant company's arrangement is, or is part of, a statutory insolvency arrangement.



85. The effect of section 269ZY(7) is that the reversal of an onerous lease provision is only a “relevant reversal”, and therefore the deductions allowance is only increased, where the company has either entered into a formal insolvency arrangement, or has entered into the arrangement to vary or cancel its obligations under the lease with the sole of main purpose of averting the risk that the company cannot pay its debts as they fall due within the next 12 months.
86. New section 269ZZ requires a company to specify the amount of its deductions allowance in its company tax return for the accounting period.
87. New section 269ZZA requires a company to amend its company tax return if it has specified an amount of deductions allowance, trading profits deductions allowance or non-trading profits deductions allowance that is excessive. HMRC has the power to make assessments to recover tax where the amount of a deductions allowance is excessive.
88. New section 269ZZB sets out the meaning of a group for the purposes of the deductions allowance. It is based on, but wider in scope than, the definition used in Part 5 of CTA 2010 for group relief purposes. A group comprises the ultimate parent and its subsidiary companies. The ultimate parent is a company that is a parent of another company where no other company is the parent of both companies (see section 269ZZB(3)).
89. Section 269ZZB(4) specifies that a company (A) is a parent company of another company (B) if:
- B is a 75% subsidiary of A;
  - A is beneficially entitled to at least 75% of B’s profits available for distribution to equity holders; or
  - A would be beneficially entitled to at least 75% of any of B’s profits available for distribution to equity holders on a winding up.
90. Section 269ZZB(5) defines equity holders as for group relief (see chapter 6 of Part 5 CTA 2010).
91. Section 269ZZB(7)(a) provides that in the case of a company without ordinary share capital, the tests in section 269ZZB(4) are instead applied to any holding or interest which provides economic rights that correspond to those provided by ordinary share capital (“corresponding ordinary holding,” see section 269ZZB(8)). The tests can also be applied to an unincorporated association (section 269ZZB(7)(b)) and to ownership through entities (other than companies), trusts or arrangements (section 269ZZB(7)(c)).
92. Paragraph 17 amends section 269C of CTA 2010, which is part of the legislation on the restriction of certain deductions for banking companies (bank loss restriction) in Part 7A of CTA 2010. The amendment makes it clear that for banking companies, Part 7A applies in addition to the new Part 7ZA (general loss restriction) introduced by this schedule.

93. Paragraph 18 amends section 269CA of CTA 2010 (which covers the restriction for pre-1 April 2015 trading losses in Part 7A) so that the definition of “relevant trading profits” used for the purposes of the bank loss restriction is the same as that used for general loss restriction (see section 269ZE).
94. Paragraph 19 amends section 269CB of CTA 2010 (which covers the restriction for pre-1 April 2015 non-trading deficits from loan relationships) so that the definition of “relevant non-trading profits” used for the purposes of the bank loss restriction is the same as that used for general loss restriction (see section 269ZE).
95. Paragraph 20 amends section 269CC of CTA 2010 (which covers the restriction for expenses of management arising before 1 April 2015) so that the definition of “relevant profits” used for the purposes of the bank loss restriction is the same as that used for general loss restriction (see section 269ZF). The amendment also specifies that the maximum expenses of management that can be relieved (“relevant maximum”) is the difference between 25% of the “relevant profits” and the amounts of any relief given for:
- pre-1 April 2017 trade losses;
  - post-1 April 2017 trade losses that can be set only against profits of the same trade, (for example those arising from uncommercial activities);
  - pre-1 April 2017 non-trading deficits from loan relationships; and
  - non-trading deficits from loan relationships arising at any time to companies that are charities.
96. Paragraph 21 omits section 269CD of CTA 2010 which is no longer required as the definitions of “relevant trading profits”, “relevant non-trading profits” and “relevant profits” used are the same as for the general loss restriction (see sections 269ZE and 269ZF).
97. Paragraph 22 amends section 269CN of CTA 2010 to bring the definitions of “relevant trading profits”, “relevant non-trading profits” and “relevant profits” in line with the definitions for the general loss restriction (see sections 269ZE and 269ZF).

### Part 3: Group relief for carried-forward losses

98. Paragraph 23 inserts a new Part 5A, comprising new sections 188AA to 188FD, into CTA 2010.
99. New section 188AA (Chapter 1) introduces the new Part 5A of CTA 2010, which brings in a new relief named “group relief for carried-forward losses”. This relief applies for groups and consortia.
100. New section 188BA provides an overview of Chapter 2 of Part 5A, which covers the

surrender of a company's carried-forward losses. Chapter 2 sets out rules relating to how amounts may be surrendered, and how the amount that may be surrendered is calculated.

101. New section 188BB permits a company to surrender certain types of carried-forward losses (specified in section 188BB(1)) for use by another group company as relief for carried-forward losses. These are losses arising on or after 1 April 2017 that can be carried forward and set against a company's total profits. For example, trading losses carried forward under new section 45A of CTA 2010 may be surrendered under Part 5A, but trading losses carried forward under new section 45B cannot, as these can only be set against profits of the same trade. Section 188BB(3)-(5) provides similar rules for life insurance companies. Sections 124A and 124C of FA 2012 require carried-forward BLAGAB trade losses that arise on or after 1 April 2017 to be set first against trading profits, and section 188BB(3)-(5) allows any remaining unused amounts to be surrendered. The surrender is effected by way of consent to one or more claims (section 188BB(6)).
102. New section 188BC prevents the surrender of any carried-forward losses arising before 1 April 2017, and any qualifying charitable donations that are treated as expenses of management.
103. New section 188BD applies where an investment business has become small or negligible. When this happens, the company may not surrender under Part 5A any carried-forward amounts that are non-trading loan relationship deficits, expenses of management or UK property business losses.
104. New section 188BE prevents the surrender of losses under Part 5A if the company has the capacity to use the losses against its own profits. For example, where the company has carried-forward losses but has chosen not to use these up to the maximum limit set out in section 269ZD(2).
105. New section 188BF prevents a company surrendering losses under this Part where it has no assets capable of producing income at the end of the period. This is to prevent groups maintaining otherwise dormant companies in order to access their losses.
106. New section 188BG prevents certain insurance companies from surrendering particular losses under this Part. Section 188BG(1) applies where a company is a general insurance company and the surrender period is an excluded accounting period in accordance with section 269ZG. Section 188BG(3) applies where the company is a Solvency 2 insurance company. A Solvency 2 insurance company cannot surrender particular losses so far as the amount is a shock loss. The losses restricted by this section, for both general insurance companies and Solvency 2 insurance companies, are non-trading losses on intangible fixed assets, management expenses and property losses.
107. New section 188BH applies certain restrictions to the amount of loss that may be surrendered by a UK resident company. A loss may not be surrendered if it is attributable to an overseas permanent establishment and relief for that loss could be obtained in the territory where the permanent establishment is situated.

108. New section 188BI applies certain restrictions to the amount of loss that may be surrendered by a non-UK resident company trading in the UK through a permanent establishment in the UK. A loss may only be surrendered by an EEA-resident company if conditions A and B are met and by any other company if conditions A, B and C are met (see below).

- Condition A requires that the losses must arise from an activity in respect of which the company is within the charge to UK corporation tax in the period in which the loss was made;
- Condition B requires that the loss is not attributable to any activity that is exempt for double taxation purposes;
- Condition C requires that the loss cannot be relievable against profits of any person in any other territory.

109. New section 188BJ applies the effect of section 109 of CTA 2010 (which is in Part 5 that covers group relief) to group relief for carried-forward losses, such that a loss may not be surrendered by a dual resident company if certain conditions are met.

110. New section 188CA gives an overview of Chapter 3 of Part 5A. This Chapter covers claims for group relief for carried-forward losses. It applies to situations where companies are members of the same group, or where the companies meet the requirements for making a claim under one of four different consortium conditions. Both the group and consortium conditions are equivalent to those that currently apply in Part 5 of CTA 2010.

111. New section 188CB sets out the requirements for making a claim for group relief for carried-forward losses in certain situations. These are based on the requirements for making a claim under Part 5 of CTA 2010 (group relief) and are as follows:

- the surrendering company consents to the claim;
- there is a period (“the overlapping period”) that is common to both the period to which the claim relates and the period for which the losses are surrendered (see new section 188DG); and
- during this period, the “group condition” is met (see new section 188CE), or one of two alternative consortium conditions are met (see new sections 188CF and 188CG). These two conditions relate to situations where the claimant company is owned by a consortium.

112. New section 188CC sets out the requirements for making a claim for group relief for carried-forward losses where certain conditions are met. These conditions apply where the surrendering company is owned by a consortium (see new sections 188CH and 188CI for the detailed conditions).

113. New section 188CD specifies that a company may not make a claim for relief under Part 5A where there are carried-forward losses (see section 188BB(1) and section 124B

of FA 2012) that have not been relieved in full against the company's total profits, or where it makes a claim under section 45(4A) of CTA 2010, section 45B(5) of CTA 2010, or section 458(1) of CTA 2009 for trading losses or non-trading deficits from loan relationships not to be set against trading or non-trading profits (as appropriate).

114. New section 188CE sets out the requirements for a company to be considered a member of a group for these purposes ("the group condition"). The requirements are the same as for group relief under Part 5 of CTA 2010 (see new section 188FB). The group condition is met if the surrendering company and claimant company are members of the same group (section 188CE(1)) and both are UK related (see new section 188CJ).

115. New section 188CF sets out consortium condition 1, which is one of the alternative consortium conditions for an amount to be claimed under section 188CB. This condition applies where the claimant company is owned by a consortium and meets the consortium conditions; and where the surrender is by a member of the consortium. This is equivalent to the second part of consortium condition 1 in section 132 of CTA 2010 – see in particular section 132(3). For each of consortium conditions 1 to 4, the rules in Part 5 of CTA 2010 are applied to determine whether a company is a member of a consortium or is owned by a consortium (see new section 188FB).

116. New section 188CG sets out consortium condition 2, which is the other alternative consortium condition for an amount to be claimed under section 188CB. This condition applies where the claimant company is owned by a consortium and meets the consortium conditions; and where the surrender is by a member of the same group as a member of the consortium (the consortium member is referred to as a "link company"). This is equivalent to the rule in section 133 of CTA 2010 – see consortium condition 3 in section 133(2).

117. New section 188CH sets out consortium condition 3. This is one of the alternative conditions for a claim to be made under section 188CC. This condition applies where the surrendering company is owned by a consortium and the claimant company is a member of the same consortium. This is equivalent to the first part of consortium condition 1 in section 132 of CTA 2010 – see in particular section 132(2).

118. New section 188CI sets out consortium condition 4, which is the other alternative condition for an amount to be claimed under section 188CC. This condition applies where the surrendering company is owned by a consortium and meets the consortium conditions; and where the claim is made by a member of the same group as a member of the consortium (the consortium member is referred to as a "link company"). This is equivalent to consortium condition 2 in section 133 of CTA 2010 – see in particular section 133(1).

119. New section 188CJ sets out the meaning of a "UK related" company for the purposes of determining a group or consortium relationship. This is the same definition as in section 134 of CTA 2010 for the purposes of Part 5 of CTA 2010.

120. New section 188CK permits an amount claimed under section 188CB (claims where the group condition is met (see section 188CE) and claims by the consortium

company) or section 188CC (surrenders by the consortium company) to be set against the total profits of the claimant company. This is subject to the restriction in section 269ZD (the restriction related to the total amount of profit that may be relieved by carried-forward losses: see section 188CK(3)(c) and (5)(c)). Relief is to be given after all other forms of relief apart from relief for losses carried back from a later period (section 188CK(6) and (7)). For this purpose the claimant company is treated as having made all available claims for certain losses carried back from a later period (section 188CK(8)).

121. New section 188DA introduces Chapter 4 of Part 5A. This chapter applies to claims made under section 188CB, which covers situations where the companies are in a group relationship; or where the claimant company is owned by a consortium, and the surrendering company is a member of the consortium or is a member of the same group as a “link company”.

122. New section 188DB sets out certain limits on the amount that may be claimed by the consortium company under section 188CB in all cases. The amount that may be surrendered is the lower of the amounts derived under new section 188DC on the one hand, and under new sections 188DD and DE (taken together) on the other. These are, in summary:

- The amount that can be surrendered, minus any amount that has already been surrendered (a “prior surrender”); and
- The amount that can be claimed, taking into account the restrictions in the new Part 7ZA of CTA 2010, minus any amounts subject to the restriction that the claimant company has already claimed for the same period.

123. Further conditions in new sections 188DH to 188DL also apply to claims and surrenders involving consortium condition 1 and/or 2.

124. New section 188DC determines the “unused part” of the “surrenderable amount”. It identifies the overlapping period and the “surrenderable amount” for that period, and then deducts any prior surrenders made for that same period (i.e.: the amounts already surrendered as group relief for carried-forward losses) to give the “unused part”. The overlapping period is the period that is common to the accounting periods of the surrendering company and the claimant company (see new section 188DG).

125. New section 188DD sets out how to determine the claimant company’s relevant maximum for the overlapping period. The standard calculation is given in section 188DD(1). The starting point at Step 1 is to calculate the company’s relevant maximum for the claim period in accordance with section 269ZD(4) and at Step 2 to deduct from that amount any deductions the company has already made in respect of losses or other amounts listed in Step 2 (other than those excluded in section 188DD(2)). As with the unused part of the surrenderable amount, the overlapping period must be identified and the relevant maximum for that period must be calculated (see Step 3).

126. Section 188DD(2) sets out the losses that are not to be deducted at Step 2 from the relevant maximum. These are the losses that are not subject to the restriction. The effect is that at Step 2 the company deducts from the relevant maximum the losses it has already used that are subject to the loss restriction.
127. Section 188DD(3) sets out an amendment to how a company must calculate its relevant maximum where the amount of its relevant profits for the claim period, as calculated in accordance with section 269ZD(5), is less than its deductions allowance for the claim period, determined in accordance with section 269ZD(6). Where that is the case, Step 1 of the calculation in section 188DD(1) is amended so that the company starts with its relevant profits for the claim period, rather than its relevant maximum. Section 188DD(5) has the effect that section 188DD(2) is ignored where this is the case, so that the losses deducted from the company's relevant profits at Step 2 are any deductions made under the relevant sections, whether or not those losses are subject to the loss restriction.
128. Section 188DD(4) sets out the calculation where the modifications in section 269ZE(1) apply to the company. This will be relevant for insurance companies in certain cases. In this instance, the calculation of the company's relevant maximum in section 188DD(1) is modified so that at Step 1 the company determines, in accordance with section 269ZE(5), the modified loss cap for the claim period, and at Step 2 reduces that amount by the total of any deductions the company has made of losses within paragraphs (a) to (i) and (k) of section 269ZD(3). Those amounts are the losses set against total profits which are subject to the loss restriction.
129. New section 188DE sets out how to compute the amount of group relief for carried-forward losses previously claimed for the overlapping period. A "prior claim" is one that has been made before the claim currently being considered and has not been withdrawn (section 188DE(2)). The amount that has been allowed must be computed on the basis of the part of the overlapping period that is common to both the current claim and the prior claim (section 188DE(3) and (4)).
130. New section 188DF provides an ordering rule where two or more claims are made at the same time. These are treated as made in such order as the company or companies making them elect, or as an officer of HMRC directs where there is no election.
131. New section 188DG sets out how to identify the overlapping period for the purposes of sections 188DC and 188DE. This is the period that is common to the accounting periods of the surrendering company and the claimant company.
132. New section 188DH sets out a further condition that must be applied where there is a claim under section under 188CB on the basis that consortium condition 1 applies. Relief is limited to the "ownership proportion" (section 188DH(3)) applied to the claimant company's "relevant profits". For example, if the surrendering company owns 25% of the ordinary share capital of the claimant company, and the claimant company's "relevant profits" for the overlapping period are £10,000, the claimant company may claim no more than £2,500 relief in respect of the surrendering company's losses (subject to any other conditions that also apply).

133. New section 188DI applies in the same way as section 188DH, but it applies where the surrendering company is a member of the same group of companies as a “link company” under consortium condition 2. The “ownership proportion” must be determined on the basis of the relationship between the claimant company and the link company.
134. New section 188DI also applies to consortium condition 2, where the claimant company claims relief for losses of companies in the link company’s group (including the link company itself). The claim is limited to the proportion of the “relevant profits” of the claimant company that it could claim in relation to the link company’s surrenderable losses (section 188DI(3)). Continuing the example set out above in relation to section 188DH, the claimant company can claim no more than 25% of its “relevant profits” in total from the link company or members of the link company’s group. This is equivalent to section 146 of CTA 2010.
135. New section 188 DK is an anti-avoidance rule that applies to situations where either consortium condition 1 or consortium condition 2 applies, and where there are arrangements in place to prevent the surrendering company or the link company (in either case alone or with one or more other consortium members) from controlling the claimant company. Where this rule applies the claimant company’s “relevant profits” are to be no more than 50% of what it otherwise would be, but for this rule. This is equivalent to section 146B of CTA 2010.
136. New section 188DL limits the amount that may be claimed by a company based on consortium condition 1 or 2 where the claimant is also a member of a group of companies. The claimant’s “relevant profits” are to be reduced by the amount that it could potentially claim under the group relief rules of Part 5 or Part 5A of CTA 2010 as a result of being a member of the group. This is equivalent to section 149 of CTA 2010.
137. New section 188EA sets out an overview of Chapter 5 of Part 5A. This chapter applies to claims made under section 188CC. This applies to situations where the surrendering company is owned by a consortium and the claim is made either by a member of the consortium (consortium condition 3); or by a member of the same group as the member of a consortium (the consortium member is referred to as the “link company”: consortium condition 4).
138. New section 188EB applies to all claims made under section 188CC. It limits the amount of group relief for carried-forward losses to the lesser of three amounts, computed under new section 188EC, under new sections 188ED and 188EE (taken together), and under new section 188EF. These are similar to the rules where the consortium company is the claimant, the main differences being that the claim must relate to a specified loss-making period (the period in which the losses arose) and that there is a third limb to the calculation options. These are, in summary:
- The amount that can be surrendered, minus any amount that is attributable to the specified loss-making period that has already been surrendered (a “prior surrender”);



- The amount that can be claimed, taking into account the restrictions in the new Part 7ZA of CTA 2010, minus any amounts that the claimant company has already claimed for the same period;
- The amount that could be claimed by the claimant company under the group relief rules in Part 5 of CTA 2010 for the specified loss-making period.

139. New section 188EC forms the first part of the comparison for the purposes of section 188EB. It sets out how to compute the unused part of the surrenderable amount attributable to the specified loss-making period. The unused part of the surrenderable amount is the amount that can be surrendered for the overlapping period (see new section 188EH) minus the amount of any prior surrenders (section 188EC(3) and (4)) in relation to claims made under either of section 188CB or section 188CC. In each case the period that is common to the current claim and the prior claim must be identified, and any prior claim amount must be apportioned to find the amount attributable to the common period. To determine the unused part of this amount that is attributable to the specified loss-making period, the proportion of the unused part of the surrenderable amount that relates to the loss-making period is computed using the fraction in new section 188EF(2).

140. New section 188ED forms the first element of the second part of the comparison for the purposes of section 188EB. This is the claimant company's "relevant maximum" for the overlapping period.

141. The standard calculation is given in section 188ED(1). The starting point at Step 1 is to calculate the company's relevant maximum for the claim period in accordance with section 269ZD(4) and at Step 2 to deduct from that amount any deductions the company has already made. Section 188ED(2) sets out the losses that are not to be deducted at Step 2 from the relevant maximum. These are the losses that are not subject to the restriction. The effect is that at Step 2 the company deducts from the relevant maximum the losses it has already used that are subject to the loss restriction. As with the unused part of the surrenderable amount, the overlapping period must be identified and the relevant maximum for that period must be calculated (see Step 3).

142. Section 188ED(3) sets out an amendment to how a company must calculate its relevant maximum where the amount of its relevant profits for the claim period, as calculated in accordance with section 269ZD(5), is less than its deductions allowance for the claim period, determined in accordance with section 269ZD(6). Where that is the case, Step 1 of the calculation in section 188ED(1) is amended so that the company starts with its relevant profits for the claim period, rather than its relevant maximum. Section 188ED(5) has the effect that section 188ED(2) is ignored where this is the case, so that the losses deducted from the company's relevant profits at Step 2 are any deductions made under the relevant sections, whether or not those losses are subject to the loss restriction.

143. Section 188ED(4) sets out the calculation where the modifications in section 269ZE(1)

apply to the company. This will be relevant for insurance companies in certain cases. In this instance, the calculation of the company's relevant maximum in section 188ED(1) is modified so that at Step 1 the company determines, in accordance with section 269ZE(5), the modified loss cap for the claim period, and at Step 2 reduces that amount by the total of any deductions the company has made of losses within paragraphs (a) to (i) and (k) of section 269ZD(3). Those amounts are the losses set against total profits which are subject to the loss restriction

144. New section 188EE forms the second element of the second part of the comparison for the purposes of section 188EB. This is the amount of group relief for carried-forward losses that is the subject of a prior claim for the overlapping period. The difference between the amounts derived under section 188ED and section 188EE is taken into the comparison for the purposes of section 188EB.
145. New section 188EF forms the third part of the comparison for the purposes of section 188EB. This is the claimant company's "potential Part 5 group relief amount". This section considers the maximum amount that a claimant could receive in relief under Part 5 of CTA 2010, minus any such relief actually given, and minus any relief given for group relief for carried-forward losses on a related claim (see section 188EF(4)) under section 188CC. This therefore imports all the conditions of Part 5 of CTA 2010, including the ownership proportion in section 143 of CTA 2010, which limits the amount that may be claimed by a member of the consortium on a surrender by the consortium-owned company. However, it applies the ownership proportion on the basis of the proportion during the period when the relevant losses arose (the "specified loss-making period": see steps 1 and 2).
146. New section 188EG sets out the ordering rules to determine what is a "prior claim" for the purposes of sections 188EC and 188EE. It also permits the use of modified calculations where a calculation using a specified proportion would not give a just or reasonable result.
147. New section 188EH sets out how to determine the "overlapping period" for the purposes of sections 188EC and 188EE.
148. New section 188EI limits claims made under section 188CC based on consortium condition 4 (the surrendering company is owned by a consortium and the claimant company is a member of the same group of companies as a link company). The total amounts claimed by the link company and any companies in the same group as the link company cannot be more than the amount that could be claimed by the link company assuming there were no claims from members of the same group.
149. New section 188EJ is an anti-avoidance provision that applies to arrangements designed to secure that the link company (either alone or with other members of the same group) does not control the surrendering company. Where this section applies the available relief is to be reduced to 50% of what it otherwise would be.
150. New section 188EK reduces the amount that may be surrendered in relation to a claim under section 188CC by the amount that could have been claimed by members of the same group on the basis of the group condition.

151. New section 188FA sets out the treatment for corporation tax purposes of any payment made between the companies in respect of group relief for carried-forward losses. The payment is not taken into account for corporation tax purposes if it does not exceed the amount of the agreed loss.
152. New section 188FB applies to Part 5A relevant definitions found in Part 5 of CTA 2010.
153. New section 188FC provides definitions of a “trading company” and a “holding company” for the purposes of Part 5A.
154. New section 188FD provides further interpretation for the purposes of Part 5A.

## **Part 4: Insurance companies: carrying forward BLAGAB trade losses**

155. Paragraph 24 introduces changes to the rules relating to BLAGAB trade losses that are contained within Chapter 9 of Part 2 of FA 2012.
156. Paragraph 25 amends section 124 FA 2012 so that it will subsequently only apply to the carry forward of BLAGAB trade losses arising in accounting periods beginning before 1 April 2017 (pre-1 April 2017 BLAGAB trade losses).
157. Paragraph 26 introduces:
- new section 124A FA 2012 which provides rules for carrying forward BLAGAB trade losses arising in accounting periods beginning on or after 1 April 2017 (post-1 April 2017 BLAGAB trade losses),
  - new section 124B FA 2012 which provides rules for relieving carried forward post-1 April 2017 BLAGAB trade losses against total profits,
  - new section 124C FA 2012 which provides rules for further carrying forward any post-1 April 2017 BLAGAB trade losses against subsequent profits,
  - new section 124D FA 2012 which provides rules that restrict the amount of carried forward BLAGAB trade losses that can be relieved against BLAGAB trade profits,
  - new section 124E of FA 2012, which provides rules that set out that carried forward BLAGAB shock losses made by a Solvency 2 insurance company (as defined by section 124B) are excluded from the restriction.
158. New section 124A applies where a BLAGAB trade loss arises on or after 1 April 2017, the trade is carried on in the next accounting period and where the loss is not utilised

against the company's total profits of the current period or as group relief. This is known as "the unrelieved amount" and is carried forward and set against BLAGAB trade profits that arise in a later period.

159. New section 124B provides rules for allowing carried forward post-1 April 2017 BLAGAB trade losses to be relieved against total profits. It ensures that any carried-forward BLAGAB trade losses must be first set against BLAGAB trade profits of the later period. Any remaining 'unrelieved amounts' may be relieved against total profits of the later period following a claim.

160. New section 124C applies to a BLAGAB trade loss that is carried forward under section 124A(2) or under section 124C(3) and that has not been relieved by either;

- firstly setting it against BLAGAB trade profits of the later period under new section 124A(5) or new section 124C(6), then either by
- setting it against total profits of the later period following a claim under new section 124B, or
- surrendering it as group relief under new Part 5A of CTA 2010.

Any such unrelieved amounts are carried forward to a further later period in which a BLAGAB trade is carried on. The approach taken by subsection (2) means that this section will be reapplied in each successive period to which unrelieved amounts are carried forward.

161. New section 124D sets out how the amount of BLAGAB trade profit that can be relieved by carried-forward BLAGAB trade losses is determined. The maximum amount of carried-forward BLAGAB trade losses that can be set against BLAGAB trade profits cannot exceed the "relevant maximum". The "relevant maximum" is the sum of the company's BLAGAB trade profits annual deductions allowance plus 50% of the company's "relevant BLAGAB trade profits" (as determined by section 124D(3)) for the accounting period.

162. Section 124D(3) defines "relevant BLAGAB trade profits" as the company's BLAGAB trade profits before any carried forward BLAGAB trade losses are deducted (sections 124(5), 124A(5) or 124C(6)) less any BLAGAB trade profits deductions allowance (see section 124D(4 - 6)).

163. Section 124D(4) specifies that the amount of a company's deductions allowance is computed in accordance with either new section 269ZR where the company is a member of a group or new section 269ZW otherwise.

164. New section 124E provides that carried forward BLAGAB shock losses made by a Solvency 2 insurance company (as defined by section 124B) are excluded from the restriction.

165. Section 124E(2) ignores carried forward BLAGAB shock losses when calculating the sum of any deductions from BLAGAB trade profits in section 124D(1) and total profits in section 269ZD(2)(b)(iii) of CTA 2010. This means that a Solvency 2 insurance

company can deduct carried forward BLAGAB shock losses up to the amount of its BLAGAB trade profit and that BLAGAB shock losses are not relevant deductions when calculating the restriction on total profits in section 269ZD.

166. New Section 124E(3) provides that ‘relevant BLAGAB trade profits’ in section 124D(3)(a) and (6) are the profits after carried forward BLAGAB shock losses have been taken into account. This ensures that carried forward BLAGAB shock losses are set against BLAGAB trade profits before carried forward BLAGAB trade losses.
167. New section 124E(4) aligns the definition of ‘Solvency 2 insurance company’ and ‘shock loss’ with that used in section 124B.

## Part 5: Carrying forward trade losses made in certain creative industries

168. Paragraphs 27 to 30 amend Chapter 4 of Part 15 of CTA 2009 (losses of separate film trade).
169. Paragraph 28 amends section 1209 of CTA 2009, which restricts the use of losses of a separate film trade arising in accounting periods ending before the film is completed or abandoned (pre-completion periods). Section 1209(2) is amended and new section 1209(3) is introduced. Losses of pre-completion periods will continue to be available for relief only by deduction from profits of the same trade in subsequent periods. These deductions will be ignored for the purposes of calculating the new restriction on deductions from trading profits under section 269ZB of CTA 2010.
170. Paragraph 29 amends section 1210 of CTA 2009, which sets out how losses of a separate film trade can be used in ‘relevant later periods’. These are the accounting period in which the film is completed or abandoned and subsequent periods in which the separate film trade continues.
171. Paragraph 29(2) and 29(3) amends sections 1210(2) and 1210(3) of CTA 2009. A loss made in the separate film trade may be carried forward under section 45 or 45B of CTA 2010 from a pre-completion period to a relevant later period. Where this is the case, the amount of that loss that is not attributable to film tax relief can be treated as a loss of the later period for the purposes of section 37 and Part 5 of CTA 2010. New sections 269ZD(3)(e) and (h) of CTA 2010 include losses used in this way as “relevant deductions” which means their use will be restricted under Part 7ZA of CTA 2010.
172. Paragraph 29(4) to 29(6) amends sections 1210(4) and 1210(5) of CTA 2009 and introduces new subsection (5A). If a loss is made in a relevant later period in the separate film trade, that loss may be deducted from total profits of later periods under section 45A of CTA 2010. The amount of the loss that can be used in this way is restricted to the amount not attributable to film tax relief. Section 269ZD(3)(f) of CTA 2010 includes losses used under section 45A as “relevant deductions” which means their use will be restricted under Part 7ZA CTA 2010. Where the loss cannot be

deducted from total profits under section 45A, it may be deducted from profits of the same trade under section 45 or 45B of CTA 2010. Where this is the case, any part of the amount deducted that is attributable to film tax relief will be ignored for the purposes of calculating the new restriction at section 269ZB of CTA 2010.

173. Paragraph 30 amends section 1211 of CTA 2009. This section allows a company to treat certain losses of a separate film trade that has ceased ('trade X') as the losses carried forward of another trade of the same type ('trade Y or Z'). Trade Y or Z must be carried on by the same company or by a company in the same group for the purposes of Part 5 of CTA 2010. The conditions for the section to apply are amended to include circumstances where losses could have been carried forward under any one of sections 45, 45A and 45B of CTA 2010 if the trade had not ceased. Losses treated as those of trade Y or Z in accordance with this section will continue to be available for set off only against profits of the same trade under section 45 or 45B. Any resulting deductions from the profits of trade Y or Z will be ignored for the purposes of calculating the new restriction on deductions from trading profits under section 269ZB of CTA 2010.
174. Paragraphs 31 to 34 make provision similar to paragraphs 27 to 30 in respect of the losses of a television programme trade.
175. Paragraphs 35 to 38 make provision similar to paragraphs 27 to 30 in respect of the losses of a video game trade.
176. Paragraphs 39, 40 and 42 make provision similar to paragraphs 27, 28 and 30 in respect of the losses of a theatrical trade.
177. Paragraph 41 amends section 1217MB of CTA 2009. A loss made in a separate theatrical trade may be carried forward under section 45 or 45B of CTA 2010 to the period in which the company ceases to carry on the trade. Where this is the case, an amount of that loss can be treated as a loss of the period of cessation for the purposes of section 37 and Part 5 of CTA 2010. This amount is however much of the loss is not attributable to an additional deduction that the company has claimed under section 1217H of CTA 2009. A loss used in this way is subject to restriction under Part 7ZA CTA 2010.
178. Paragraphs 43, 44 and 46 make provisions similar to paragraphs 27, 28 and 30 in respect of the losses of an orchestral trade.
179. Paragraph 45 amends section 1217SB of CTA 2009. A loss made in a separate orchestral trade may be carried forward under section 45 or 45B of CTA 2010 to the period in which the company ceases to carry on the trade. Where this is the case, the amount of that loss that is not attributable to orchestra tax relief can be treated as a loss of the later period for the purposes of section 37 and Part 5 of CTA 2010.

## Part 6: Oil activities

180. Paragraph 47 introduces amendments to Part 8 of CTA 2010 (oil activities).
181. Paragraph 48 inserts new sections 303A to 303D into chapter 4 of Part 8 of CTA 2010.
182. New section 303A defines a non-decommissioning loss where a company carries on a ring fence trade.
183. New section 303B provides that a non-decommissioning loss, which is not relieved under section 37 or section 42 of CTA 2010, or Part 5 of CTA 2010, is to be carried forward, and that relief is given by deducting the amount of the loss from profits of the same trade in a later period.
184. New section 303C provides that where an amount carried forward under section 303B or section 303D of CTA 2010 is not relieved in a later period against profits of the trade, the company may claim to deduct any such unrelieved amount from its total profits. However, no such claim can be made if the trade was not carried on commercially with a view to profit. Any claim must be made within two years of the end of the later period, or such further time as an officer of HMRC allows.
185. New section 303D provides that where an amount carried forward under s303B CTA 2010 has not been relieved against trade profits under s303B, or s303D(5), against total profits under s303C or surrendered by way of group relief for carried forward losses under Part 5A CTA2010, the amount continues to be carried forward to the next period. Relief is given for the unrelieved amount, by deducting that amount from the profits of the trade in the next period.
186. Paragraph 49 amends section 304 of CTA 2010. New subsections (1A) and (1B) provide that where a company makes a profit in a ring fence trade, that profit may not be reduced by a non-trading loss on intangible fixed assets, by a trade loss carried forward against total profits, or by a loss made in a UK property business.
187. Paragraph 49(3) amends section 304(5), to allow losses of a ring fence trade carried forward under section 45B, section 303B or section 303D CTA 2010 to be set against profits of related activities, where those related activities together with the activities of the ring fence trade would be considered to be one trade, but for the application of section 279 of CTA 2010.
188. Paragraph 49(4) inserts new subsection (7) into section 304 of CTA 2010. This subsection excludes ring fence losses, which are carried forward to be set against future profits of the trade, from the restriction on the use of carry forward losses. It achieves this by providing that a loss made in a ring fence trade, which is carried forward under section 45 or section 45B of CTA 2010 is not taken into account in calculating the restriction on deductions from trading profits in section 269ZB of CTA 2010.
189. Paragraph 50 amends section 305 of CTA 2010. New subsection (1A) provides that profits from a claimant company's ring fence trade may not be reduced by any amount of group relief for carried forward losses surrendered to the company.

190. Paragraph 51 amends section 307 of CTA 2010, which provides an overview of the Ring Fence Expenditure Supplement rules.
191. Paragraph 52 amends section 321 of CTA 2010, so that ring fence expenditure supplement of a post-commencement period beginning on or after 1 April 2017 is treated as if it were a loss of the ring fence trade carried forward under section 45B of CTA 2010.
192. Paragraph 53 amends section 323 of CTA 2010, which defines ring fence losses for the purposes of ring fence expenditure supplement. The amendments ensure that losses of a ring fence trade incurred in accounting periods beginning on or after 1 April 2017 are still able to generate ring fence expenditure supplement.
193. Paragraph 54 substitutes the existing section 327 of CTA 2010 with a new section 327. New section 327 sets out how reductions are to be made to the non-qualifying pool, and the ring fence pool, when losses are used under any of sections 45, 45B, 303B, 303C or 303D, or when claims are made not to use losses under section 45 or 45B.
194. Paragraph 55 amends section 328A of CTA 2010, so that the provisions also apply to losses incurred in accounting periods beginning on or after 1 April 2017.

## Part 7: Oil contractors

195. Paragraph 56 introduces amendments to Part 8ZA of CTA 2010 (oil contractors).
196. Paragraph 57 amends section 356NE of CTA 2010. The amendments prevent trade losses carried forward under section 45A from being used to reduce profits arising from oil contractor activities, except where the loss arose as a result of oil contractor activities.
197. Paragraph 57(4) inserts new subsections (2) and (3) into section 356NE of CTA 2010. These prevent profits arising from oil contractor activities from being reduced by non-trading losses on intangible fixed assets, UK property business losses, or non-decommissioning losses of ring fence trades.
198. Paragraph 58 amends section 356NF of CTA 2010.
199. Paragraph 58(3) inserts new subsection (3A) into section 356NF. This provides that any profits from a company's oil contractor activities may not be reduced by any amount of group relief for carried forward losses surrendered to the company, except to the extent that the surrendered loss arose from oil contractor activities for the surrendering company.
200. Paragraph 59 inserts new sections 356NH to 356NJ into Part 8ZA of CTA 2010.
201. New section 356NH applies to losses from oil contractor activities carried forward under s45(4)(b), and losses under s45A and Part 5A CTA 2010 set against contractor's ring fence profits. The amount of these losses that can be deducted from total profits under these sections is capped at the sum of any amount of the deductions allowance



allocated to the contractor's ring fence profits, plus 50% of the contractor's ring fence profits.

202. New section 356NI sets out how to calculate a company's deductions allowance where that company has oil contractor activity profits. Section 356NI(5) allows the company to specify such amount as it chooses to be its contractor's ring fence profits deductions allowance.

203. New section 356NI provides that where a loss carried forward under section 45A or claimed under part 5A of CTA 2010 has been set against the contractor's ring fence profits for an accounting period, such amounts are not relevant deductions as defined when calculating restrictions on deductions from total profits under new section 269ZD CTA2010. Where a loss is carried forward under section 45(4)(b), it should not be taken into account in calculating the restriction on deductions from trading profits in new section 269ZB CTA2010 where the loss arises from oil contractor activities.

## Part 8: Transferred trades

204. Paragraph 61 introduces changes to Chapter 1 of Part 22 of CTA 2010, which deals with the consequences of the transfer of a trade without a change of ownership.

205. Paragraph 62 amends the overview of the chapter to include reference to the newly inserted section 943A of CTA 2010.

206. Paragraph 63 inserts a new section 943A into CTA 2010, immediately before section 944. This new section removes the ability of the predecessor in the trade to claim loss relief under the extended time limits for terminal loss relief set out in section 39 of CTA 2010.

207. Paragraph 64 amends section 944 of CTA 2010 so that in future it will apply only to relief for trade losses arising before 1 April 2017 and carried forward under section 45 of CTA 2010.

208. Paragraph 65 inserts new sections 944A to 944E into Part 22 of CTA 2010.

209. New section 944A modifies the effect of section 45A of CTA 2010 so that losses made in, or carried forward to, the transferor's final period of trading are (subject to certain conditions) treated as carried forward and allowable to the transferee under section 45A.

210. New section 944B has a similar effect to section 944A, but in respect of losses carried forward and allowable under section 45B of CTA 2010.

211. New section 944C has the effect that the predecessor cannot make a claim under section 45F of CTA 2010 (terminal losses) where that loss was made in the transferred trade. For losses within section 45 of CTA 2010, this restriction does not apply where the trade is transferred before 13 July 2017.

212. New section 944D has a similar effect to section 944A, but in respect of losses carried

forward and allowable under section 303B of CTA 2010.

213. New section 944E has a similar effect to section 944A, but in respect of losses carried forward and allowable under section 303D of CTA 2010.

214. Paragraph 66 expands the scope of section 945 of CTA 2010 to ensure that the limitation on loss relief in section 945 applies to relief under the new sections 944A to 944E as well as to relief given under section 944.

215. Paragraph 67 amends section 951 of CTA 2010 to ensure that the new rules apply appropriately where the transferee carries on the transferred trading activities as part of its trade.

216. Paragraph 68 makes a necessary amendment in section 952 of CTA 2010, consequent on the amendments to section 951.

## Part 9: Tax avoidance

217. Paragraph 69 amends section 730F of CTA 2010, part of the rules in Part 14B of CTA 2010, known as “loss refresh”. Those rules prevent arrangements designed to convert carried-forward losses into “in-year” losses that can be used more flexibly. Those rules do not currently apply to carried-forward UK property business losses and carried-forward non-trading losses on intangible fixed assets.

218. Paragraph 69(2) extends the rules to encompass those two types of loss.

219. Paragraph 69(3) applies the rules in Part 14B to post 1 April 2017 trade losses carried forward under the new provisions at sections 45A and 45B of CTA 2010.

220. Paragraph 69(4) applies the rules in Part 14B to non-trading loan relationship deficits arising on or after 1 April 2017 and carried forward under the new rules.

221. Paragraph 70 introduces amendments to Part 14 of CTA 2010 (changes in company ownership).

222. Paragraph 71 amends the overview of Part 14 in section 672 of CTA 2010.

223. Paragraph 72 amends section 673 of CTA 2010, which applies to trading losses. It changes the timeframe within which a major change in the nature or conduct of a trade can occur in order for Chapter 2 of Part 14 to apply. That timeframe is extended from a period within 3 years of a change in a company’s ownership to a period of 5 years beginning no more than 3 years before the change in ownership. This extended timeframe applies only where both the change in ownership and the major change in the nature and conduct of the trade occur on or after 1 April 2017. Where either of those events takes place before 1 April 2017 the current 3 year timeframe continues to apply.

224. Paragraph 73 amends section 674 of CTA 2010. It extends the effect of section 674 to cover relief for post 1 April 2017 losses under sections 45A, 45B, 45F, 303B and 303C

of CTA 2010. This change will ensure that where a company undergoes a change in ownership, and a major change in its business (within the relevant timescale) that involves a major change in a trade or business that has generated carried-forward losses, any losses arising from that trade or business before the change in ownership will be disallowed completely, and cannot be set against future profits or claimed as group relief under the new Part 5A of CTA 2010.

225. Paragraph 74 inserts new section 674A which has the effect that losses of a ring fence trade that are not non-decommissioning losses are not disallowed by section 674 of CTA 2010 where it is condition A in section 673 that is met and the major change did not occur within a period of 3 years in which the change in ownership occurs. In effect, this means that the amendment to section 673(2) extending the period of time during which a major change is considered does not have effect for losses of a ring fence trade that are not non-decommissioning losses. Instead, those losses continue to be disallowed where there is a major change within a period of 3 years in which a change in ownership occurs, rather than the extended period of 5 years beginning no more than 3 years before the change in ownership.
226. Paragraph 75 inserts a new Chapter 2A into Part 14 of CTA 2010, consisting of new sections 676AA to 676AL. Chapter 2A will apply to losses arising on or after 1 April 2017, but only where Chapter 2 or Chapter 3 does not apply to those losses.
227. New Section 676AA introduces the new Chapter 2A. This chapter will apply where there is both a change in company ownership and a major change in the nature or conduct of a company's business, or of a "co-transferred" company's business, on or after 1 April 2017. Section 676AA(4) introduces new timescales within which a major change in the business of a company or a co-transferred company must take place for Chapter 2A to apply. The rules apply where a major change in a trade takes place within a period of 5 years of the change in ownership, beginning no more than 3 years before the change in ownership, or where a major change in an investment business takes place within a period of 8 years beginning 3 years before the change in ownership. A "co-transferred" company is defined at new section 676AL.
228. New section 676AB sets out that Chapters 2 and 3 of Part 14 take priority over the new Chapter 2A. This means that where there is a major change in a trade or business that has generated carried-forward losses, any losses arising from that trade or business before the change in ownership will be disallowed completely, and cannot be carried forward against future profits or claimed as group relief under the new Part 5A of CTA 2010.
229. New Section 676AC sets out the meaning of a "major change in the business" of a company. This encompasses all aspects of a company's business and can therefore involve, for example, an expansion of a trade, or a major change in investments or property holdings. Section 676AC(4) disregards a transfer of a business between co-transferred companies (defined in new section 676AL) in considering whether there has been a major change.
230. New Section 676AD provides for the accounting period in which the change in ownership occurs to be split, such that a notional accounting period ends on the date

of the change in ownership. It applies the rules in section 685 of CTA 2010 to apportion losses and deductions between the two notional periods.

231. New Section 676AE defines “affected profits” for the purposes of Chapter 2A. These are profits arising within 5 years of the end of the accounting period in which the change in ownership occurred that can fairly and reasonably be attributed to the major change. For example, profits arising from the introduction or expansion of a trade or business. Where the major change is in the trade or business that gave rise to the losses, Chapter 2 or Chapter 3 would apply to those losses in priority to Chapter 2A.
232. New Section 676AF ensures that, where the conditions are met, a company cannot deduct carried-forward trading losses against its total profits, to the extent that those profits are “affected profits” in any accounting period ending after the change in ownership. An accounting period is treated for these purposes as ending on the date of the change in ownership by section 676AE(3). This applies to losses within sections 45A, 45F and 303C of CTA 2010, and section 124B of FA 2012.
233. New Section 676AG restricts the amount of certain non-trading loan relationship debits (defined in section 730 of CTA 2010) that may be set off against total profits for the notional accounting period beginning with the change in ownership, or any later period. The amount that may be set off is limited to the amount by which those debits, minus any such debits set off in any earlier accounting period ending after change in ownership, exceed the profits of the notional period that ends with the change in ownership.
234. New Section 676AH prevents a non-trading loan relationship deficit that arose before the change in ownership from being set off against “affected profits” after the change in ownership.
235. New Section 676AI prevents a non-trading loss on intangible fixed assets that arose before the change in ownership from being set off against “affected profits” after the change in ownership.
236. New Section 676AJ prevents expenses of management that arose before the change in ownership from being set off against “affected profits” after the change in ownership.
237. New Section 676AK prevents a UK property business loss that arose before the change in ownership from being set off against “affected profits” after the change in ownership.
238. New Section 676AL defines a “co-transferred company” and a “related company”. Without the extension of the rules to a co-transferred company, a company could surrender, under Part 5A of CTA 2010, losses arising before the change in ownership to another company that was transferred at the same time, where the trade or business of that other company could be significantly expanded by the new owner to absorb losses arising before the change in ownership.
239. Paragraph 76 inserts a new Chapter 2B into Part 14 of CTA 2010, comprising new sections 676BA to 676BE.

240. New Section 676BA sets out the scope of Chapter 2B. It applies where there is a change in ownership of a company, the company acquires an asset under the intra-group transfer rules such that no gain or loss arises on the transfer, and, within 5 years of the change in ownership, that company makes a gain on the disposal of the asset. It also applies where a gain is transferred to the company in accordance with sections 171A and 171B of TCGA 1992. Chapter 2B applies only to trading losses. Other forms of loss remain within Chapter 4 of CTA 2010, as amended by paragraphs 67, 69 and 70, to reflect the new loss relief rules; and relief under the new Part 5A of CTA 2010 is dealt with in the new Chapter 2D of Part 14, introduced by paragraph 63.
241. New Section 676BB provides for the accounting period in which the change in ownership occurs to be split, such that a notional accounting period ends on the date of the change. It also applies section 702 of CTA 2010 for the purpose of apportioning amounts to the two notional periods.
242. New Section 676BC prevents relief for any carried-forward trading losses under sections 45A, 45F and 303C of CTA 2010, and section 124B of FA 2012 against profits that represent a gain under the “relevant provisions” on any asset or gain falling within section 676BA.
243. New Section 676BD sets out the meaning of “relevant provisions” for the purposes of chapter 2B.
244. New Section 676BE sets out what is meant by profits which represent a relevant gain.
245. Paragraph 77 inserts a new Chapter 2C into Part 14 of CTA 2010, comprising new sections 676CA to 676CI.
246. New Section 676CA introduces the new Chapter 2C. It applies to group relief for carried-forward losses under the new Part 5A of CTA 2010, where there is a change in ownership of the company that wishes to surrender those losses.
247. New Section 676CB sets out the general rule. A company may not claim group relief under Part 5A of CTA 2010 for any losses arising in a company before that company was acquired. The restriction lasts for a period of 5 years following the end of the accounting period of the transferred company in which the change of ownership occurred (see section 676CE(1)). A notional accounting period is treated as ending on the date the company is acquired (section 676CB(5)), and a notional accounting period is treated as ending at the end of the 5 year period (section 676CE(3)).
248. New Section 676CC applies to circumstances where either of consortium conditions 1 or 2 (defined in the new Part 5A of CTA 2010) were met immediately before the change in ownership and the transferred company is the claimant. The amount of relief is limited for the 5 year period in section 676CE(1) based on the ownership proportion immediately before the change of ownership. In effect, this limits the relief for the 5 year period to the ownership proportion for the specified loss-making period (the year the loss arose).
249. New section 676CD applies to circumstances where either of consortium conditions 3 or 4 (defined in the new Part 5A of CTA 2010) were met immediately before the

change in ownership and the transferred company is the surrenderer. The amount of relief is limited for the 5 year period in section 676CE(1) based on the amount of losses the consortium company could have surrendered under section 188CC. In effect, this limits the relief for the 5 year period to the ownership proportion for the specified loss-making period (the year the loss arose).

250. New Section 676CE sets out further exceptions to the rule in section 676CB(3). Section 676CE(1) limits the restriction to a 5 year period beginning at the end of the accounting period of the transferred company in which the change of ownership occurred. Section 676CE(2) removes the restriction where the claimant company was eligible to claim group relief from the company that made the losses before the change in ownership. This would apply where two companies that meet the group relief conditions are transferred into the same new ownership at the same time.
251. New Section 676CF applies in circumstances where both this chapter and one of chapters 2, 2A or 3 also apply. This could occur, for example, when chapter 2 disallows all trading losses carried forward when there is a major change in the trade that gave rise to those losses following a change in ownership. Section 676CF(3) prevents relief being given under Part 5A of CTA 2010 against “affected profits” of the company (see new section 676CG).
252. New section 676CG defines “affected profits” for the purposes of section 676CF. These are profits that arise within 5 years of the end of the accounting period of the transferred company in which the change in ownership occurs and which can fairly and reasonably be attributed to the major change set out in chapter 2, 2A or 3.
253. New section 676CH defines what is meant by a “relevant pre-acquisition loss”.
254. New section 676CI provides definitions of a “co-transferred company” and a “related” company.
255. Paragraph 78 inserts a new Chapter 2D into Part 14 of CTA 2010, comprising new sections 676DA to 676DE.
256. New Section 676DA introduces the new chapter. It applies where there is a change in ownership of a company, the company acquires an asset under the intra-group transfer rules such that no gain or loss arises on the transfer, and, within 5 years of the change in ownership, that company makes a gain on the disposal of the asset. It also applies where a gain is transferred to the company in accordance with sections 171A and 171B of TCGA 1992.
257. New Section 676DB provides for the accounting period in which the change in ownership occurs to be split, such that a notional accounting period ends on the date of the change.
258. New Section 676DC sets out the restriction. Group relief for carried-forward losses may not be claimed against gains arising from the transferred-in assets where the losses arose in a company before that company was acquired by the group.
259. New Section 676DD defines “relevant provisions”.

260. New Section 676DE defines the profits which “represent a relevant gain”.
261. Paragraph 79 inserts new Chapter 2E, comprising new sections 676EA to 676EE, into Part 14 of CTA 2010.
262. New Section 676EA introduces the Chapter and outlines that the Chapter applies if there is a change in ownership of a company on or after 1 April 2017.
263. New Section 676EB restricts the use of trade losses where there has been a transfer of trade after a change in ownership.
264. Section 676EB(1) states that section 676EB(2) applies where:
- there has been a transfer of trade to which Chapter 1 of Part 22 applies (Transfers of trade without a change in ownership),
  - a trade is transferred by the transferred company to another company (“the successor company”) within a period of 8 years beginning 3 years before a change in ownership, and
  - the transferred company and the successor company are not related to one another both immediately before the change in ownership and at the time the trade is transferred.
265. Section 676EB(2) prevents a loss under section 45A or 303C of CTA 2010 from being deducted from the relevant profits of the successor company where those profits arise in an accounting period ending after the change in ownership.
266. Section 676EB(3) defines “relevant profits” as profits that arise before the 5<sup>th</sup> anniversary of the end of the transferred company’s accounting period during which the change in ownership took place and which cannot be fairly and reasonably be attributed to the successor company’s carrying on of the transferred trade.
267. Section 676EB(4) to (7) sets out how to treat the transferred company’s losses and the successor company’s profits where they arise in accounting periods that overlap the date of the change in ownership.
268. New Section 676EC restricts the surrender of carried-forward trade losses where there has been a transfer of a trade. The restriction applies where a transferred company or co-transferred company transfers a trade to a successor company within the period of 8 years beginning 3 years before the change in ownership, Chapter 1 of Part 22 of CTA 2010 applies to the transfer, and another company (“the claimant company”) would, apart from section 676EC, be able to make a “relevant claim” under Part 5A of CTA 2010 for group relief for carried-forward losses.
269. Section 676EC(2) defines a “relevant claim” as one for an accounting period ending after the change in ownership, and which is in respect of a loss carried-forward under sections 45A(3), 303B(2) or 303D(3) and made in the trade by the transferred company or co-transferred company in an accounting period beginning before the change in ownership.

270. Section 676EC(3) sets out the general rule, which is that relief under Part 5A is not available. Section 676EC(4) and (5) sets out exceptions to the general rule. Section 676EC(4) has the effect that there is no restriction in the relief against the claimant company's profits where they arise after the 5<sup>th</sup> anniversary of the end of the accounting period of the transferred company in which the change in ownership occurred. Section 676EC(5) removes the restriction where the group condition was met in relation to the claimant company and the transferred company immediately before the change in ownership.
271. New Section 676ED applies to indirect transfers of a trade. Section 676ED(2) and (3) applies where the trade transferred by the transferred company or a co-transferred company is transferred to another company. The transferred trade is treated as having been transferred by the transferred company or (as the case may be) the co-transferred company and as having been transferred by that company at the time the trade was actually transferred to the other company.
272. Section 676ED(4) to (6) applies where the activities of the transferred trade ("the original trade") are included in the activities of another trade ("the composite trade") and the composite trade is transferred to another company. The transferred company or (as the case may be) the co-transferred company is treated for the purposes of Chapter 2E as having transferred the original trade to the other company and as having done so at the time the composite trade was actually transferred. If the transfer of the composite trade is a transfer to which Chapter 1 of Part 22 of CTA 2010 applies then the deemed transfer is treated as being a transfer within that Chapter.
273. New Section 676EE applies section 940B (meaning of "transfer of trade" and related expressions) to Chapter 2E as it applies to Chapter 1 of Part 22 of CTA 2010. The section also defines "co-transferred company" and "related" company for the purposes of this Chapter.
274. Paragraph 80 amends section 677 in Chapter 3 of CTA 2010. This rule currently applies to the profits of a company with investment business where there is a change in ownership. The existing rules for considering when a major change takes place apply 3 years before and 3 years after the change in ownership. The new rules apply for a period of 5 years following the change in ownership. As a result, references to an overall period of 6 years are amended to 8 years (paragraph 80(2) and 80(3)), but only where both the change in ownership and the major change take place on or after 1 April 2017 (paragraph 80(4)).
275. Paragraph 81 amends the reference in section 681 of CTA 2010 to a loss on intangible fixed assets to come into line with the changes made by paragraph 5.
276. Paragraph 82 amends the table in section 685 of CTA 2010 so that apportionments may be made under that section in connection with the new rules in Part 14 of CTA 2010. Where a change in ownership occurs before 13 July 2017, the additional references in the table to non-trading loan relationship deficits do not extend to deficits within section 463H of CTA 2009.
277. Paragraph 83 amends section 690 of CTA 2010 to extend the time limit to 5 years



instead of 3 years where a change in ownership occurs on or after 1 April 2017.

278. Paragraph 84 amends section 692 of CTA 2010, which is part of Chapter 4 of Part 14 (transfer of assets following change of ownership). It extends the coverage of Chapter 4 to include gains that are treated as arising to the company by the operation of section 171B of TCGA 1992. The change only applies where both the change in ownership and the chargeable gain arise on or after 1 April 2017.

279. Paragraph 85 amends section 696 of CTA 2010 to insert a reference to debits under section 463B(1)(a) of CTA 2009.

280. Paragraph 86 amends the table in section 702 of CTA 2010 so that apportionments may be made under that section in connection with the new rules in Part 14 of CTA 2010. Where a change in ownership occurs before 13 July 2017, the additional references in the table to non-trading loan relationship deficits do not extend to deficits within section 463H of CTA 2009.

281. Paragraph 87 amends section 704 of CTA 2010, which is part of the rules that apply to a company carrying on a UK property business. It extends the period within which a “major change” in the nature or conduct of the company’s business will cause the legislation to apply from 3 years to 5 years (from the date of the change in ownership), but only where both the change in ownership and the “major change” take place on or after 1 April 2017.

282. Paragraph 88 has the same effect as paragraph 87, but in respect of a company carrying on an overseas property business.

283. Paragraph 89 amends the definition of a “change in ownership” in section 719 of CTA 2010. It brings within that meaning a change whereby a company acquires an interest in another company such that the group condition in section 188CE is met.

284. Paragraph 90 extends the references in section 721 of CTA 2010 to include the new chapters 2A to 2D of Part 14 of CTA 2010.

285. Paragraph 91 amends section 727 of CTA 2010 to change the reference from 3 years to 5 years.

286. Paragraph 92 amends the “deduction-buying” rules in Part 14A of CTA 2010. Paragraph 92(2) extends the rules to cover group relief for carried-forward losses under Part 5A of CTA 2010. Paragraph 92(6) inserts a new subsection (7A) into section 730C of CTA 2010. This sets out an ordering rule for the use of losses that could be claimed as group relief for carried-forward losses, but where section 730C would prevent the use of those losses.

## Part 10: Northern Ireland trading losses etc

287. Paragraph 93 introduces amendments to Part 8B of CTA 2010.

288. Paragraph 94 amends the italic heading before section 357JB of CTA 2010.

289. Paragraph 95 introduces new sections 357JB and 357JC into CTA 2010 in place of the existing sections 357JB to 357JE. New Section 357JB provides for the way in which loss relief under section 37 and new sections 45A to 45F works if a company has Northern Ireland losses or mainstream losses. New section 357JC restricts the deduction in respect of Northern Ireland losses to be made against mainstream profits where, in the accounting period in which relief is given, the Northern Ireland CT rate is lower than the main rate.
290. Paragraph 96 inserts new sections 357JHA to 357JHD into CTA 2010, after section 357JH. These new sections provide for modifications of the provisions in respect of group relief for carried forward losses in respect of Northern Ireland losses.
291. New section 357JHA provides priority rules in respect of Northern Ireland and mainstream losses.
292. New section 357JHB restricts the deduction in respect of Northern Ireland losses to be made against mainstream profits where, in the accounting period in which relief is given, the Northern Ireland CT rate is lower than the main rate.
293. New sections 357JHC and 357JHD make necessary modifications to Chapters 4 and 5 of Part 5A respectively.
294. Paragraph 97 makes consequential amendments to section 357JJ of CTA 2010 which contains the formula restricting the deduction available where a Northern Ireland loss is set off against mainstream profits in a period in which the Northern Ireland CT rate is lower than the main rate.
295. Paragraphs 98 and 99 make consequential amendments to sections 357RF and 357RG of CTA 2010 (losses of film trades).
296. Paragraph 100 and 101 make consequential amendments to sections 357SF and 357SG of CTA 2010 (losses of television programme trade).
297. Paragraphs 102 and 103 make consequential amendments to sections 357TF and 357TG of CTA 2010 (losses of video game trade).
298. Paragraphs 104 and 105 make consequential amendments to sections 357UF and 357UO of CTA 2010 (losses of theatrical trade).

## Part 11: Minor and consequential amendments

299. Paragraph 106 amends section 826 of the Income and Corporation Taxes Act 1988 (ICTA). It sets out how to compute interest on tax overpaid where the company claims relief for a terminal loss against earlier profits under new section 45F of CTA 2010.
300. Paragraphs 107 to 122 make consequential amendments to Schedule 18 to FA 1998 to introduce the necessary returns, claims and other administrative requirements for giving effect to group relief for carried-forward losses.

301. Paragraphs 123 to 126 amend the Capital Allowances Act 2001 to insert necessary references to losses carried forward under section 45A and to group relief for carried-forward losses in section 212Q; and to insert references to losses carried forward under section 45A and 45B in section 138 and paragraph 20 of Schedule A1.
302. Paragraph 127 amends the Energy Act 2004 to insert necessary references to the new loss relief provisions.
303. Paragraph 128 introduces amendments to CTA 2009.
304. Paragraph 129 amends section 39(3) of CTA 2009 to insert a reference to group relief for carried-forward losses.
305. Paragraph 130 amends section 364(4) of CTA 2009 to insert a reference to group relief for carried-forward losses.
306. Paragraph 131 amends section 371 of CTA 2009 in line with the amendment to section 364(4).
307. Paragraph 132 amends section 387 of CTA 2009 to insert a reference to the new Chapter 16A of Part 5 of CTA 2009.
308. Paragraph 133 amends section 1048 of CTA 2009. Paragraph 133(2) inserts a reference to “the deemed loss-making period”, which is then used in the new subsections (4A) to (4D), inserted by paragraph 133(4).
309. New section 1048(4A) of CTA 2009 states that section 1048(4B) applies where the deemed loss-making period begins on or after 1 April 2017, the company either begins a trade in that period and carries it on in the following accounting period, or begins to carry on a trade after the deemed loss-making period, and that trade is derived from the research and development in relation to which the relief under section 1045 has been obtained.
310. New section 1048(4B) treats the loss as if it were a loss brought forward to the ‘relevant period’ under the ‘relevant provision’, so far as the company has not obtained relief for the loss under any other provision and has not surrendered it under Part 5 of CTA 2010 (group relief).
311. New section 1048(4C) defines the ‘relevant provision’ as section 45A of CTA 2010 where the trade is not a ring fence trade within the meaning of Part 8 of CTA 2010 or a trade where any loss would have been denied relief under section 37 of CTA 2010 due to section 44 of that Act (‘trade must be commercial or carried on for statutory functions’). If either of those conditions is not met, the ‘relevant provision’ is section 45B of CTA 2010.
312. New section 1048(4D) defines the ‘relevant period’. Where the company began the trade in the deemed loss-making period and continued to carry it on in the following accounting period, that following accounting period is the ‘relevant period’. Where the company began the trade in an accounting period after the deemed loss-making period, the accounting period in which the company began the trade is the ‘relevant period’.

313. Paragraph 134 amends section 1056 of CTA 2009 to insert references to losses carried forward under sections 45A and 45B of CTA 2010, and to group relief for carried-forward losses.
314. Paragraph 135 amends section 1062(2) of CTA 2009 to insert references to losses carried forward under sections 45A and 45B of CTA 2010.
315. Paragraph 136 amends section 1116 of CTA 2009 to insert references to group relief for carried-forward losses.
316. Paragraph 137 amends section 1153 of CTA 2009 to insert references to losses carried forward under sections 45A and 45B of CTA 2010, and to group relief for carried-forward losses.
317. Paragraph 138 amends section 1158(2) of CTA 2009 to insert references to losses carried forward under sections 45A and 45B of CTA 2010.
318. Paragraph 139 amends section 1201(2B)(b) of CTA 2009 to insert a reference to losses carried forward under section 45B of CTA 2010.
319. Paragraph 140 amends section 1216CH(4)(b) of CTA 2009 to insert a reference to losses carried forward under section 45B of CTA 2010.
320. Paragraph 141 amends section 1217CH(4)(b) of CTA 2009 to insert a reference to losses carried forward under section 45B of CTA 2010.
321. Paragraph 142 amends section 1217KA(3)(b) of CTA 2009 to insert a reference to losses carried forward under section 45B of CTA 2010.
322. Paragraph 143 amends section 1217RH(3)(b) of CTA 2009 to insert a reference to losses carried forward under section 45B of CTA 2010.
323. Paragraph 144 amends section 1223 of CTA 2009. Taken together with the amendment made by paragraph 6(2)(b) it ensures that section 1223 applies correctly where expenses of management are eligible to be carried forward and set against total profits of a later accounting period.
324. Paragraphs 145 to 174 make consequential changes to CTA 2010 to amend the overview of the Act and to expand references to section 45 of CTA 2010 to also refer to sections 45A and/or 45B as appropriate, and to add references to group relief for carried-forward losses.
325. Paragraph 145 introduces the amendments to CTA 2010.
326. Paragraph 146 amends the overview in section 1 of CTA 2010 to include references to group relief for carried-forward losses in Part 5A, and to the restriction on relief for carried-forward losses in Part 7ZA.
327. Paragraph 147 amends section 17 of CTA 2010 to expand references to losses that are carried back or carried forward to take account of the new legislation.
328. Paragraph 148 amends section 46 of CTA 2010 to expand the reference to section 45 of CTA 2010 to include relief under section 45B in cases where trade related interest and

dividends are treated as trading profits for the purposes of loss relief.

329. Paragraph 149 amends section 47 of CTA 2010 to add a reference to section 45B of CTA 2010.
330. Paragraph 150 amends section 53 of CTA 2010 to add references to sections 45A and 45B of CTA 2010.
331. Paragraph 151 amends section 54 of CTA 2010 to add references to sections 45A and 45B of CTA 2010.
332. Paragraph 152 amends section 56 of CTA 2010 to add references to section 45A and Part 5A of CTA 2010.
333. Paragraph 153 amends section 59 of CTA 2010 to add references to section 45A and Part 5A of CTA 2010.
334. Paragraph 154 amends section 61 of CTA 2010 to ensure that, where a company carries on a trade as a member of a Limited Liability Partnership, relief is calculated correctly under section 45A and Part 5A of CTA 2010, and to add references to section 45A and Part 5A of CTA 2010.
335. Paragraph 155 amends Chapter 4 of Part 4 of CTA 2010 (property losses).
336. Paragraph 155(2) amends section 65 of CTA 2010. This section applies if a company carries on a UK furnished holiday lettings business. Subsection (4A) is amended and new subsection (4B) is introduced. Losses of UK furnished holiday lettings businesses will continue to be unavailable for set off against total profits of the loss-making period and of previous periods. Where the business has a loss carried forward, that loss will be available for set-off only against profits of the same trade. Losses of a UK furnished holiday lettings business carried forward and set off against later profits in this way will be ignored for the purposes of calculating the new restriction on deductions from trading profits under section 269ZB.
337. Paragraph 155(3) amends section 67A of CTA 2010. This section applies if a company carries on an EEA furnished holiday lettings business. Subsection (5) is amended and new subsection (5A) is introduced. Losses of EEA furnished holiday lettings businesses will continue to be unavailable for set off against total profits of the loss-making period and of previous periods. Where the business has a loss carried forward, that loss will be available for set-off only against profits of the same trade. Losses of an EEA furnished holiday lettings business carried forward and set off against later profits in this way will be ignored for the purposes of calculating the new restriction on deductions from trading profits under section 269ZB.
338. Paragraph 156 amends section 95 of CTA 2010 to insert references to losses carried forward under section 45A and section 45B, and to add a reference to group relief for carried-forward losses.
339. Paragraph 157 amends section 99 of CTA 2010 so that non-trading loan relationship deficits arising on or after 1 April 2017 are available for group relief within Part 5 of CTA 2010.

340. Paragraph 158 amends section 104 of CTA 2010, which is part of the group relief legislation. This is an amendment relating to non-trading losses on intangible fixed assets that is consequential to the change made by paragraph 5.
341. Paragraph 159 amends the list in section 137 of CTA 2010 of deductions to be given after group relief under Part 5. That list is expanded to include references to relief for a post-1 April 2017 non-trading loan relationship deficit set against profits of the deficit period or an earlier period, and group relief for carried-forward losses.
342. Paragraph 160 amends section 189 of CTA 2010 to add group relief for carried-forward losses to the priority rule in the provisions about relief for qualifying charitable donations.
343. Paragraph 161 amends section 269DA of CTA 2010 to take account of group relief for carried-forward non-banking losses in determining profits for the purposes of the surcharge on banking companies.
344. Paragraph 162 inserts a new section 269DBA into CTA 2010 to add necessary definitions in relation to group relief for carried-forward losses.
345. Paragraph 163 amends section 269DC of CTA 2010 to insert references to trade losses carried forward under section 45A and 45B, and references to sections 463G and 463H of CTA 2009 in relation to non-trading loan relationship deficits.
346. Paragraph 164 amends section 385 of CTA 2010 to insert a reference to section 45F of CTA 2010.
347. Paragraph 165 amends section 398D of CTA 2010 to insert a restriction in relation to group relief for carried-forward losses.
348. Paragraph 166 amends section 427 of CTA 2010 to insert a reference to section 45F of CTA 2010.
349. Paragraph 167 amends Chapter 5 of Part 9 of CTA 2010 which contains anti-avoidance provisions relating to sales of lessors.
350. Paragraph 167(2) amends section 432 of CTA 2010 so that new section 433A of that Act will apply as well as section 433 if certain conditions are met.
351. Paragraph 167(3) amends section 433 of CTA 2010. This section denies certain reliefs in respect of a restricted loss amount created on the sale of a leasing company. The reliefs denied will now include both pre- and post-1 April 2017 carried-forward losses and group relief for carried-forward losses.
352. Paragraph 167(4) inserts new section 433A into CTA 2010. This provides that deductions for trading losses carried forward in respect of the restricted loss amount will be ignored for the purposes of calculating the new restriction on deductions from trading profits under section 269ZB. It also provides that deductions for UK property business losses carried forward in respect of the restricted loss amount will be ignored for the purposes of calculating the new restriction on deductions from total profits under section 269ZD.

353. Paragraph 168 amends section 599 of CTA 2010, part of the rules relating to UK Real Estate Investment Trusts (REITs). A new subsection (9) is inserted which has the effect that Part 7ZA of CTA 2010 (restrictions on the use of carried-forward losses) does not apply to a UK REIT.

354. Paragraph 169 amends section 601 of CTA 2010 to insert a reference to group relief for carried-forward losses.

355. Paragraph 170 amends section 705E of CTA 2010 as a consequence of the amendment made by paragraph 5 in relation to intangible fixed assets.

356. Paragraph 171 amends section 705F(2) of CTA 2010 to insert references to section 463G and 463H of CTA 2009, and to make other amendments consequential on those additions.

357. Paragraph 172 amends section 730C of CTA 2010 to insert references to section 45A and Part 5A of CTA 2010.

358. Paragraph 173 amends section 888 of CTA 2010 to insert references to sections 45A and 45B of CTA 2010, and to insert a reference to group relief for carried-forward losses.

359. Paragraph 174 updates the index of defined expressions in Schedule 4 to CTA 2010.

360. Paragraph 175 introduces amendments to the Taxation (International and Other Provisions) Act 2010 ("TIOPA").

361. Paragraph 176 amends section 54 of TIOPA to insert references to sections 463B(1), 463G(4) and 463H(3) of CTA 2009.

362. Paragraph 177 amends section 55 of TIOPA to insert references to section 463B(1)(a) of CTA 2009.

363. Paragraph 178 amends section 156(1) of TIOPA to expand the meaning of "losses" to include Chapter 16A of CTA 2009 and group relief for carried-forward losses.

364. Paragraph 179 amends section 371IF of TIOPA to insert a reference to Chapter 16A of CTA 2009.

365. Paragraph 180 inserts new section 371SKA into TIOPA. This prevents the deductions allowance (see new sections 269ZW and 269ZS) from being used in the calculation of a controlled foreign company's (CFC's) taxable total profits for the purposes of the new restrictions for carried-forward losses at Part 7ZA of CTA 2010. It also prevents the use of the deductions allowance where the provisions of Part 7ZA are applied for the purposes of Part 7A CTA 2010. Part 7A contains rules relating to banking companies and includes the bank loss restriction.

366. Paragraph 181 amends section 371SL of CTA 2010 so that group relief for carried-forward losses surrendered by a CFC will be ignored when determining the CFC's assumed taxable total profits.

367. Paragraph 182 amends paragraph 10 of Schedule 9 to the Finance (no 3) Act 2010, to

make amendments to the new Part A1 to be introduced into Schedule 54 to the Finance Act 2009. These amendments ensure that interest provisions on repayments of tax operate correctly in relation to the new structure of loss relief.

368. Paragraphs 183 introduces amendments to FA 2012 in respect of insurance companies.
369. Paragraph 184 amends section 78(5) of FA 2012 so that post- 1 April carried forward BLAGAB trade losses that are surrendered as group relief in a later period or which are relieved against total profits of a later period are included within the meaning of “BLAGAB trade loss relieved for the accounting period” in that later period and will be deducted from BLAGAB management expenses in step 5 of the calculation within section 76 for the later period.
370. Paragraph 185 amends section 93(2) of FA 2012 so that carried forward BLAGAB trade losses are taken into account in the calculation of adjusted BLAGAB trade profits for the purposes of section 93.
371. Paragraph 186 amends section 104 of FA 2012 so that carried forward BLAGAB trade losses are taken into account in the calculation of adjusted BLAGAB trade profits for the purposes of section 104.
372. Paragraph 187 includes within section 125 of FA 2012 a reference to new Part 5A of CTA 2010 and the rules for group relief for carried forward losses.
373. Paragraph 188 amends section 126 of FA 2012 to ensure that carried forward post-1 April 2017 BLAGAB trade losses that are relieved against total profits (under s124B) or that have been surrendered as group relief (under Part 5A CTA 2010) are reduced by the amount of any non-trading deficit arising in the year the loss arose. Section 126(1E) provides that losses are deemed to be used first in first out basis.
374. Paragraph 189 amends section 127 of FA 2012 to ensure that the policyholders’ share of the ‘I minus E’ profit for an accounting period cannot be relieved by post-1 April carried forward BLAGAB trade losses that have been surrendered as group relief (under Part 5A CTA 2010) or which are relieved against total profits (under s124B).

## Part 11: Commencement etc.

375. Paragraph 190 sets out the commencement rules for Parts 1 to 9 and 11. The changes take effect for accounting periods beginning on or after 1 April 2017. Where an accounting period begins before 1 April 2017 and ends after 1 April 2017 the period is treated as two separate accounting periods and profits and losses are apportioned to the two periods. Profits and losses within this paragraph are apportioned on a time basis (in accordance with section 1172 of CTA 2010) unless that method would produce a result that is unjust or unreasonable, in which case a just and reasonable basis is used. Where a time apportionment is unjust or unreasonable and so another just and reasonable method is used, it might be appropriate to apportion the entire



actual profit or loss of the straddling period to one of the deemed accounting periods, with a result of nil in the other deemed period. The method of apportioning amounts set out in this paragraph is ignored where the accounting period includes an amount that either would not have arisen or would be less (in the case of a profit) or greater (in the case of a loss) if it were not for Part 10 of TIOPA 2010, corporate interest restriction. In those circumstances, the method of apportionment is set out in paragraphs 191 or 192.

376. Paragraph 191 applies where it is necessary to apportion an amount (“the amount concerned”) to two deemed accounting periods and the amount concerned is either an amount chargeable to corporation tax which would have been less but for the corporate interest restriction, or an amount such as a loss in respect of which relief is available which would have been greater but for the corporate interest restriction. Where that is the case, the company is to establish what the amount concerned would have been but for the interest restriction in order to give “the notional amount”. The company establishes what amount of the notional amount would have been apportioned to the first of the deemed accounting periods had the apportionment method set out in paragraph 190 applied to give “the notional apportioned amount”. If that amount is equal to or greater than the amount concerned, the whole of the amount concerned is apportioned to the first deemed accounting period. Otherwise, the notional apportioned amount is apportioned to the first accounting period and the remainder of the amount concerned is apportioned to the second deemed accounting period.

377. For example, a company with an accounting period 1 January to 31 December 2017 has a profit of £20m. Its interest restricted under Part 10 TIOPA 2010 is £8m, meaning its profits would have been £12m if it had not been for the interest restriction. The company’s amount concerned is £20m and its notional amount, the profit it would have had were it not for the interest restriction, is £12m. Apportioning the notional amount on a time basis does not give a result that is unjust or unreasonable, so £3m of the notional amount would have been apportioned to the first deemed accounting period, meaning the notional apportioned amount is £3m. This is less than the amount concerned of £20m and so £3m of the profit is apportioned to the first deemed accounting period. The remainder of the amount concerned is £17m and that is apportioned to the second deemed accounting period.

378. If, instead, the company had made a loss of £12m during an accounting period which would have been a loss of £96m but for a restriction of interest within Part 10 of TIOPA 2010 of £84m, the amount concerned is a loss of £12m and the notional amount is £96m. Using a time basis, the notional apportioned amount (three months out of twelve of the notional amount of £96m) is £24m. This gives a notional apportioned amount that is greater than the amount concerned and so the entire amount concerned of £12m is apportioned to the first deemed accounting period. The second deemed accounting period will have an amount of nil.

379. Paragraph 192 applies where a company would have had a loss or a result of nil if it were not for the corporate interest restriction in Part 10 of TIOPA 2010, which results in the company having a profit for the straddling period. If that is the case, the whole

of the profit for the straddling period (the amount concerned) is apportioned to the second deemed accounting period.

380. The effect of Paragraphs 191 and 192 is that the outcome of the interest restriction measure in Part 10 of TIOPA 2010, which applies from 1 April 2017, is taken into account for the purposes of the loss reform commencement provisions entirely in the deemed accounting period beginning 1 April 2017.

381. Paragraph 193 amends the commencement rule applicable to the Corporation Tax (Northern Ireland) Act 2015 to take account of the amendments made by Part 10 of this schedule. It provides that the changes made by Part 9 of the Schedule have effect as if they have always been part of Part 8B of CTA 2010.

382. Paragraph 194 applies a transitional provision in respect of non-trading loan relationship deficits within section 463H of CTA 2009. An amount within that section is disregarded for the purposes of sections 188DD, 188ED and 730F of CTA 2010 unless it is a deficit that arises after 13 July 2017. Paragraph 194(3) defines a deficit that arises after 13 July 2017 as one that arises in a period that begins on or after that date or, where the deficit arises in a period that begins before 13 July 2017 and ends after that date, the amount of the deficit that is apportioned to the part of the period that begins with 13 July 2017. Paragraphs 194(4) and (5) set out how the apportionment referred to in paragraph 194(3) is to be carried out.

## Background note

383. These changes modernise how corporation tax loss relief is given by increasing companies' flexibility in the use of their losses, whilst ensuring that companies pay tax in each accounting period that they make substantial profits.

384. Currently losses can be set against the company's profits of the period in which the loss arose, or surrendered as group relief in the same period, with a fairly wide degree of flexibility. However, losses carried forward to a later period are more restricted. In particular, trading losses can only be set against later profits of the same trade and non-trading deficits on loan relationships can only be set against non-trading profits. Carried-forward amounts cannot be surrendered as group relief.

385. These reforms make two main changes. Firstly, they increase the company's flexibility to set off carried-forward losses, either against the company's own total profits in later periods, or in the form of group relief in a later period. Secondly, they limit the amount of profit against which carried-forward losses can be set to a maximum of 50% of the company's total profits for the period. Each group (or a company that is not part of a group) will have an annual allowance of £5m profits. Carried-forward losses can be set against that amount without restriction. The 50% restriction applies to profits above the £5m annual allowance.

386. No changes are made to relief for in-year losses or in-year group relief, and to losses carried-back to an earlier period: they can still be set off against all available profits of the same period. There is also no change to the treatment of allowable losses under

the chargeable gains legislation.

387. The rules will apply to losses arising in the form of trading losses, expenses of management, non-trading loan relationship deficits, UK property business losses and non-trading losses on intangible fixed assets.
388. Existing anti-avoidance rules covering loss buying, deduction buying and 'loss refresh' are amended to reflect the changes set out above. Additional anti-avoidance rules are introduced to prevent exploitation and abuse of the new flexibility.
389. The new rules will apply to all losses arising on or after 1 April 2017. Losses arising before that date will remain subject to the existing rules and cannot benefit from the increased flexibility, but they will be subject to the restriction on the amount of profit that can be relieved by carried-forward losses.
390. Since the introduction of the legislation in March, this Schedule has been amended. Some changes have been introduced to ensure companies do not suffer an unwarranted restriction. These are changes to prevent the loss restriction:
- a. impacting insurer's regulatory capital requirements,
  - b. applying to insolvent insurers with a long tail of health-related employer liability claims,
  - c. applying to the reversal of an onerous lease provision that arises from a corporate rescue.
391. The legislation now allows post-1 April 2017 trading losses to be transferred between companies under common ownership, while ensuring that this ability cannot be used for avoidance purposes.
392. The group relief rules have been amended to ensure that non-trading loan relationship deficits that arise on or after 1 April 2017 can be surrendered to other companies in a group.
393. Amendments have been made to the calculation of the "relevant maximum" for the purposes of group relief for carried-forward losses, so that the rules work as intended.
394. The oil and gas ring fence expenditure supplement rules have been amended so that companies can benefit from the supplement in respect of losses arising on or after 1 April 2017. In addition, the rules for oil and gas losses have been updated so that where an oil and gas trade becomes small or negligible, its losses lose certain flexibility. This aligns the treatment of oil and gas losses with that for non-oil and gas trading losses.
395. The commencement rules have been amended to ensure that adjustments as a result of the interest restriction measure in new Part 10 of TIOPA 2010 are apportioned appropriately for the purposes of this Clause, as well as setting out a transitional provision where amendments only have effect from 13 July 2017.
396. If you have any questions about this change, or comments on the legislation, please

FINANCE BILL

CLAUSE 1

SCHEDULE 1

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