

## Clause 1 and Schedule 1: Relief for carried-forward losses

### Summary

1. This measure reforms 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. The schedule is set out in nine 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 anti-avoidance provisions. Parts 7 and 8 contain minor and consequential amendments. Part 9 contains commencement provisions.

### Details of the clause and schedule

4. Clause 1 introduces the Schedule.

### 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 that arise 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.
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 new section 463I.
14. 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.
15. 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.

16. 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 loss on non-trading 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.
17. Paragraph 6 amends section 1223 of CTA 2009 (expenses of management of an investment business).
18. 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 85 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.
19. 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.
20. Paragraph 7 introduces amendments to Chapter 2 of Part 4 of CTA 2010 (trade losses).
21. Paragraph 8 amends the wording of section 36(1) of CTA 2010 so that it refers to all forms of relief for trade losses.

22. Paragraph 9 amends the heading before section 37 of CTA 2010.
23. 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.
24. 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.
25. Paragraph 11 inserts new sections 45A to 45H into CTA 2010.
26. 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 may, on the making of a claim, be carried forward and set against total profits of a later period (section 45A(5)). Section 45A(2) 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 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).
27. 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.
28. Section 45A(6) 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.
29. 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 (sections 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)).

30. 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.
31. New 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 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 CTA 2010).

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

32. 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) 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.
33. 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.
34. 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 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.

35. 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.
36. 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.
37. Paragraph 12 introduces amendments to Chapter 4 of Part 4 of CTA 2010 (losses from a property business).
38. 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.
39. 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 amounts to be carried forward and 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**

40. Paragraph 15 introduces amendments to CTA 2010.
41. Paragraph 16 inserts a new Part 7ZA, comprising new sections 269ZA to 269ZO, into CTA 2010.
42. 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.
43. 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) and certain types of trade losses arising on or after 1 April 2017 (post-1 April 2017) 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(3). 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 (see [section 269ZB\(5\)](#)) plus 50% of the company's trading profits in excess of that proportion of the annual allowance ("relevant trading profits", defined in [new section 269ZE](#)). [Section 269ZB\(6\)](#) ensures that the trading 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 the Finance Act \(FA\) 2012](#)).

44. [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 the Finance Act 2012](#)).

45. [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 [sections 269ZB, 269ZC and new section 124D](#) (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 excess of:

- the company's total profits minus its in-year losses ("relevant profits": see [new section 269ZF](#));
- over and above its deductions allowance for the period.

46. [New section 269ZD\(6\)](#) specifies that the amount of a company's deductions allowance is computed in accordance with either [new section 269ZG](#) where the company is a member of a group or [new section 269ZL](#) otherwise.

47. [New section 269ZE](#) sets out how to calculate "relevant trading profits" and "relevant non-trading profits" for the purposes of [sections 269ZB and 269ZC](#) respectively and "relevant BLAGAB trade profits" for the purposes of [section 124D](#). "Relevant trading profits" is the difference between "qualifying trading profits" and the "trading profits

deductions allowance"; "relevant non-trading profits" is the difference between "qualifying non-trading profits" and the "non-trading profits deductions allowance" and "relevant BLAGAB trade profits" is the difference between "qualifying BLAGAB trade profits" and the "BLAGAB trade profits deductions allowance". The three types of qualifying profit are computed in accordance with section 269ZE(4).

48. New section 269ZE(4) contains 5 steps:

- Step 1 is to compute the company's "modified total profits" (as defined in 269ZE(5)).
- Step 2 is to identify any amounts that can be relieved against total profits (such as group relief for current year losses), ignoring reliefs for carried-forward losses that are subject to the loss restriction ("relevant deductions": see section 269ZD(3)) or losses carried back from a later accounting period that are set against total profits. (These two items are defined as "excluded deductions": see section 269ZE(6)).
- Step 3 is to divide the profits computed under step 1 into "trade", "BLAGAB trade" and any profits that do not fall within the categories of "trade" or "BLAGAB trade" profits.
- Step 4 is then to apply the reliefs identified at step 2 to reduce the profits at Step 3 but without reducing either amount below zero. This gives the final amounts of the company's "qualifying trading profits", "qualifying non-trading profits" and "qualifying BLAGAB trade profits" (step 5).

49. Section 269ZE(5) defines "modified total profits". This excludes from total profits for these purposes 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. Section 269ZE(5) also excludes any "I minus E" profit of an insurance company, but includes any BLAGAB trade profits. In calculating "modified total profits", no deductions are made for

- a. pre-1 April 2017 trade losses, 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);
- b. 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);



- c. pre-1 April 2017 non-trading deficits from loan relationships;
  - d. non-trading deficits from loan relationships arising at any time to companies that are charities;
  - e. pre-1 April 2017 carried forward BLAGAB trade losses; or
  - f. post-1 April 2017 carried forward BLAGAB trade losses.
50. New section 269ZF sets out how to calculate “relevant profits” for the purposes of Part 7ZA. This is the difference between the total profits at Step 1 of section 269ZE(3), and the sum of:
- the total deductions at Step 2 of section 269ZE(3): these are deductions for in-year losses; and
  - the deductions allowance for the period.

“Relevant profits” cannot be less than zero (section 269ZF(2)).

51. New section 269ZG 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 269ZH to 269ZK) 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 269ZG(2)).
52. New section 269ZH 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 269ZH(1)(b)). All members of the group must agree to the nomination (section 269ZH(1)(b) and section 269ZH(6)). The nomination can take effect before the date it is made (see section 269ZH(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 269ZH(2)); otherwise the allowance is reduced proportionately (section 269ZH(3)). If the nominated company’s accounting period is less than 12 months the allowance is again reduced proportionately (section 269ZH(4)).
53. New section 269ZH(7) sets out the circumstances in which the group allowance nomination ceases to have effect.
54. New section 269ZI 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 269ZI(4)) or a later period if an officer of HMRC allows it (section 269ZI(5)).
55. New section 269ZJ 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 269ZI\(4\)](#)).

A revised allocation statement may be submitted at a later time if an officer of HMRC allows.

56. [New section 269ZK](#) 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 269ZK\(6\)](#)) 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 269ZK\(5\)](#)). If the amounts allocated exceed these limits, the statement must be amended ([section 269ZK\(7\)](#) and (8)). If it is not amended, an officer of HMRC may make an amendment and must notify each company ([section 269ZK\(9\)](#) 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 269ZK\(11\)](#)).
57. [New section 269ZL](#) 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.
58. [New section 269ZM](#) requires a company to specify the amount of its deductions allowance in its company tax return for the accounting period.
59. [New section 269ZN](#) 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.
60. [New section 269ZO](#) 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 269ZO\(3\)](#)).
61. [Section 269ZO\(4\)](#) 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.
62. Section 269ZO(5) defines equity holders as for group relief (see chapter 6 of Part 5 CTA 2010).
63. Section 269ZO(7)(a) provides that in the case of a company without ordinary share capital, the tests in section 269ZO(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 269ZO(8)). The tests can also be applied to an unincorporated association (section 269ZO(7)(b)) and to ownership through entities (other than companies), trusts or arrangements (section 269ZO(7)(c)).
64. 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, the Part 7A legislation applies in addition to the new Part 7ZA (general loss restriction) introduced by this schedule.
65. 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).
66. 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).
67. Paragraph 20 amends section 269CC 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.

68. 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).
69. 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

70. Paragraph 23 inserts a new Part 5A, comprising new sections 188AA to 188FD, into CTA 2010.
71. 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.
72. 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.
73. 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. Subsections (3) - (5) provide similar rules for life insurance companies. Sections 124A and 124C require carried forward BLAGAB trade losses that arise on or after 1 April 2017 to be set first against trading profits, subsections (3) - (5) allow any remaining unused amounts to be surrendered. The surrender is effected by way of consent to one or more claims (section 188BB(6)).
74. 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.
75. 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.
76. 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).

77. 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.
78. New section 188BG 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.
79. New section 188BH 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.
80. New section 188BI 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.
81. 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.
82. 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.
83. 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).
84. 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)) 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).
85. 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(2)) and both are UK related (see new section 188CJ).
86. 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).
87. 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).
88. 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).
89. 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).

90. New section 188CI sets out the meaning of a “UK related” company for the purposes of determining a group or consortium relationship. This is the same as that in section 134 CTA 2010 used for the purposes of Part 5 CTA 2010.
91. 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 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)).
92. 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”.
93. 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 that the claimant company has already claimed for the same period.
94. Further conditions in new sections 188DH to 188DL also apply to claims and surrenders involving consortium condition 1 and/or 2.
95. 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 (ie: 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).

96. New section 188DD sets out how to determine the claimant company’s relevant profits for the overlapping period. The starting point is to compare the company’s relevant profits for the claim period with the restricted amount of profit that may be relieved (the “relevant maximum”), computed in accordance with section 269ZD(4). As with the unused part of the surrenderable amount, the overlapping period must be identified and the profits for that period must be calculated, taking account of reliefs that may be carried forward and set only against certain profits (see Steps 2 and 3).
97. 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)).
98. 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.
99. 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.
100. 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).
101. 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.
102. 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.

103. New section 188DK 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.

104. 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.

105. 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).

106. 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 sections 188EC, 188ED and 188EE (taken together), and 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.

107. 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).

108. 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 profits" for the overlapping period, computed in accordance with section 269ZD(4), and adjusted for any carried-forward reliefs claimed that can only be set against certain types of profits (see Step 2 and section 269ZD(5)).

109. 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.

110. 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).

111. 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.

112. New section 188EH sets out how to determine the "overlapping period" for the purposes of sections 188EC and 188EE.

113. 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.

114. 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.
115. 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.
116. 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.
117. New section 188FB applies to Part 5A relevant definitions found in Part 5 of CTA 2010.
118. New section 188FC provides definitions of a “trading company” and a “holding company” for the purposes of Part 5A.
119. New section 188FD provides further interpretation for the purposes of Part 5A.

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

120. Paragraph 24 introduces changes to the rules relating to BLAGAB trade losses that are contained within Chapter 9 of Part 2 of FA 2012.
121. 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).
122. 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.

123. 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.

124. 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.

125. New section 124C applies to a BLAGAB trade loss that is carried forward under section 124A(2) or under subsection (6) of this section 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 BLAGAB 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.

126. 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 269ZE(3)) for the accounting period.

127. New section 124D(6) specifies that the amount of a company's deductions allowance is computed in accordance with either new section 269ZG where the company is a member of a group or new section 269ZL otherwise.

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

128. Paragraphs 27 to 30 amend Chapter 4 of Part 15 of CTA 2009 (losses of separate film trade).
129. 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). Subsection (2) is amended and new subsection (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.
130. 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.
131. Paragraphs 29(2) and 29(3) amend 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 CTA 2010.
132. Paragraphs 29(4) to 29(6) amend sections 1210(4) and 1210(5) of CTA 2009 and introduce 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. New 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.
133. 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 resultant 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.

134. Paragraphs 31 to 34 make provision similar to paragraphs 27 to 30 in respect of the losses of a television programme trade.
135. Paragraphs 35 to 38 make provision similar to paragraphs 27 to 30 in respect of the losses of a video game trade.
136. Paragraphs 39, 40 and 42 make provision similar to paragraphs 27, 28 and 30 in respect of the losses of a theatrical trade.
137. 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.
138. Paragraphs 43, 44 and 46 make provisions similar to paragraphs 27, 28 and 30 in respect of the losses of an orchestral trade.
139. 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: Tax avoidance

140. Paragraph 47 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.
141. Paragraph 47(2) extends the rules to encompass those two types of loss.
142. Paragraph 47(3) applies the rules in Part 14B to post 1 April 2017 trading losses carried forward under the new provisions at sections 45A and 45B of CTA 2010.
143. Paragraph 47(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.

144. Paragraph 48 introduces amendments to Part 14 of CTA 2010 (changes in company ownership).
145. Paragraph 49 amends the overview of Chapter 14 in section 672 of CTA 2010.
146. Paragraph 50 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 5 years. 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.
147. Paragraph 51 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 and 45F 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.
148. Paragraph 52 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.
149. 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 5 years of the change in ownership, or where a major change in an investment business takes place within 8 years of the change in ownership. A "co-transferred" company is defined at new section 676AL.
150. 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.
151. 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.

152. 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.
153. 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.
154. 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).
155. New Section 676AG restricts the amount of certain non-trading loan relationship debits (defined in section 730C 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.
156. 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.
157. 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.
158. 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.
159. 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.
160. 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.

161. Paragraph 53 inserts a new Chapter 2B into Part 14 of CTA 2010, comprising new sections 676BA to 676BE.
162. 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 61 and 62, 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 55.
163. 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.
164. New Section 676BC prevents relief for any carried-forward trading losses under section 45A or section 45F of CTA 2010 against profits that represent a gain under the “relevant provisions” on any asset or gain falling within section 676BA.
165. New Section 676BD sets out the meaning of “relevant provisions” for the purposes of chapter 2B. This includes any chargeable gain included in a company’s profits chargeable to corporation tax, and certain amounts arising under the intangible fixed asset rules.
166. New Section 676BE sets out what is meant by profits which represent a relevant gain.
167. Paragraph 54 inserts a new Chapter 2C into Part 14 of CTA 2010, comprising new sections 676CA to 676CH.
168. 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.
169. 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 new 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)).

170. New Section 676CC applies to circumstances where either 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).
171. New section 676CD applies to circumstances where either 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 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).
172. New Section 676CE sets out further exceptions to the rule in section 76CB(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.
173. 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 prevents relief being given under Part 5A of CTA 2010 against “affected profits” of the company (see new section 676CG).
174. New section 676CG defines “affected profits” for the purposes of section 676CE. 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.
175. New section 676CH defines what is meant by a “relevant pre-acquisition loss”.
176. New section 676CI provides definitions of a “co-transferred company” and a “related company”.
177. Paragraph 55 inserts a new Chapter 2D into Part 14 of CTA 2010, comprising new sections 676DA to 676DE.
178. 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.

179. 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.
180. 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.
181. New Section 676DD defines “relevant provisions”.
182. New Section 676DE defines the profits which “represent a relevant gain”.
183. Paragraph 56 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 of 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 56(2) and 56(3)), but only where both the change in ownership and the major change take place on or after 1 April 2017 (paragraph 56(4)).
184. Paragraph 57 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.
185. Paragraph 58 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.
186. Paragraph 59 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 of ownership and the chargeable gain arise on or after 1 April 2017.
187. Paragraph 60 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.
188. Paragraph 61 amends section 696 of CTA 2010 to insert a reference to debits under section 463B(1)(a) of CTA 2009.
189. Paragraph 62 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.
190. Paragraph 63 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.

191. Paragraph 64 has the same effect as paragraph 63, but in respect of a company carrying on an overseas property business.
192. Paragraph 65 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..
193. Paragraph 66 extends the references in section 721 of CTA 2010 to include the new chapters 2A to 2D of Part 14 of CTA 2010.
194. Paragraph 67 amends the “deduction-buying” rules in Part 14A of CTA 2010. Paragraph 67(2) extends the rules to cover group relief for carried-forward losses under Part 5A of CTA 2010. Paragraph 67(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 7: Minor and consequential amendments

195. Paragraph 68 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.
196. Paragraphs 69 to 84 make consequential amendments to Schedule 18 of FA 1998 to introduce the necessary returns, claims and other administrative requirements for giving effect to group relief for carried-forward losses.
197. Paragraph 85 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.
198. Paragraphs 86 to 91 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.
199. Paragraph 92 amends Chapter 4 of Part 4 of CTA 2010 (property losses).
200. Paragraph 92 (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.

201. Paragraph 92 (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.
202. Paragraph 93 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.
203. Paragraph 94 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.
204. Paragraph 95 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.
205. Paragraph 96 amends Chapter 5 of Part 9 of CTA 2010 which contains anti-avoidance provisions relating to sales of lessors.
206. Paragraph 96 (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.
207. Paragraph 96(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.
208. Paragraph 96(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.
209. Paragraph 97 amends Chapter 2 of Part 12 of CTA 2010 (requirements for being a UK REIT).

210. Paragraph 97(2) inserts new subsection (4B) into section 530 of CTA 2010. A company UK REIT (Real Estate Investment Trust) must calculate the profits of its property rental business in order to determine the 90% minimum amount to be distributed. For the purposes of this calculation, the new restrictions in respect of carried-forward losses at Part 7ZA of CTA 2010 will not apply.
211. Paragraph 97(3) inserts new subsection (2A) in section 533 of CTA 2010. The principal company in a group UK REIT must prepare a financial statement for the group's property rental business in the United Kingdom for an accounting period. When profits of group members are calculated for this statement, the new restrictions in respect of carried-forward losses at Part 7ZA of CTA 2010 will not apply.
212. Paragraphs 98 to 100 amend Part 9A of TIOPA 2010 (controlled foreign companies).
213. Paragraph 99 inserts new section 371SKA into TIOPA 2010. This prevents the deductions allowance (see new sections 269ZG and 269ZL) 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.
214. Paragraph 100 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.

## **Part 8: Minor and consequential amendments (insurance companies)**

215. Paragraphs 101 – 106 provide consequential amendments to FA 2012 in respect of insurance companies.
216. Paragraph 102 amends section 78(5) 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" and will be deducted from BLAGAB management expenses in step 5 of the calculation within section 76.
217. Paragraph 103 amends section 93(2) 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.
218. Paragraph 104 amends section 94 so any post-1 April carried forward BLAGAB trade losses that are either relieved against total profits of a later period or surrendered as group relief in that later period are not included within the meaning of "BLAGAB trade loss relieved for the accounting period" and so will not be deducted from BLAGAB management expenses in step 5 of the calculation within the section 76 re-

calculation, as part of the re-calculation of 'I minus E profit' required by section 94(2).

219. Paragraph 105 amends section 104 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.

220. Paragraph 106 amends section 127 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 9: Commencement etc.

221. Paragraph 107 sets out the commencement rule. 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.

## Background note

222. The measure will modernise how corporation tax loss relief is given by increasing the flexibility over the profits that future carried-forward losses can be relieved against whilst ensuring that businesses pay tax in each accounting period that they make substantial profits.

223. 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.

224. 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.

225. 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.

226. 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.
227. Existing anti-avoidance rules covering loss buying, deduction buying and 'loss refresh' will be amended to reflect the changes set out above. Additional anti-avoidance rules are being introduced to prevent exploitation and abuse of the new flexibility.
228. 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.
229. If you have any questions about this change, or comments on the legislation, please contact Claire White on Telephone: 03000 545597 or email: [claire.white@hmrc.gsi.gov.uk](mailto:claire.white@hmrc.gsi.gov.uk) or Clare Dunne on Telephone: 03000 585961 or email: [clare.e.dunne@hmrc.gsi.gov.uk](mailto:clare.e.dunne@hmrc.gsi.gov.uk).