STATUTORY INSTRUMENTS

1988 No. 654

TAXES

The Finance Act 1986 (Stamp Duty and Stamp Duty Reserve Tax) (Amendment) Regulations 1988

Made - - - -	*30th March 1988*
Laid before the House of Commons	*30th March 1988*
Coming into force	*29th April 1988*

The Treasury, in exercise of the powers conferred on them by sections 81(5) and 89(5) of the Finance Act 1986(a), hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Finance Act 1986 (Stamp Duty and Stamp Duty Reserve Tax) (Amendment) Regulations 1988 and shall come into force on 29th April 1988.

(2) The day specified in these Regulations for the purpose of Regulations under subsection (5) of section 81 of the Finance Act 1986 in accordance with subsection (6) of that section is 29th April 1988.

2. For section 81(3) of the Finance Act 1986 there shall be substituted the following subsection–

"(3) For the purposes of this section a person is a market maker in stock of a particular kind–

(*a*) if he–

(i) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and

(ii) is recognised as doing so by the Council of The Stock Exchange; or

(*b*) if–

(i) he is an authorised person under Chapter III of Part I of the Financial Services Act 1986,

(ii) he carried out the transaction in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986, as a principal and in circumstances where that paragraph was applicable for the purposes of that Act,

(iii) he did not carry out the transaction in the course of any of the activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and

(iv) the stock was not at the time the transaction was carried out dealt in on a recognised investment exchange.".

(a) 1986 c.41.

3. For section 89(3) of the Finance Act 1986 there shall be substituted the following subsection–

"(3) For the purposes of this section a person is a market maker in securities of a particular kind–

(*a*) if he–

(i) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and

(ii) is recognised as doing so by the Council of The Stock Exchange; or

(*b*) if–

(i) he is an authorised person under Chapter III of Part I of the Financial Services Act 1986,

(ii) he makes the agreement in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986, as a principal and in circumstances where that paragraph is applicable for the purposes of that Act,

(iii) he does not make the agreement in the course of any activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and

(iv) the securities are not at the time the agreement is made dealt in on a recognised investment exchange within the meaning of the Financial Services Act 1986.".

Mark Lennox-Boyd
David Lightbown

30th March 1988 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 81(3) and 89(3) of the Finance Act 1986 contain definitions of "market maker" for the purposes of exemption from stamp duty and stamp duty reserve tax respectively. Sections 81(5) and 89(5) provide that the Treasury may by regulations provide that for sections 81(3) and 89(3) there shall be substituted subsections containing different definitions of "market maker" for the purposes of those sections. These Regulations substitute such subsections for sections 81(3) and 89(3).

The purpose of the substituted subsections is to extend the exemptions from stamp duty and stamp duty reserve tax to an "authorised person" under Chapter III of Part I of the Financial Services Act 1986 (c.60) in certain circumstances.

The exemption from stamp duty applies to an "authorised person" if he carried out the transaction in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986, as a principal and in circumstances where that paragraph was applicable for the purposes of that Act; he did not carry out the transaction in the course of any of the activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986; and the stock was not, at the time the transaction was carried out, dealt in on a "recognised investment exchange".

The exemption from stamp duty reserve tax applies to an "authorised person" if he makes the agreement in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986, as a principal and in circumstances where that paragraph is applicable for the purposes of that Act; he does not make the agreement in the course of any of the activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986; and the securities are not, at the time the agreement is made, dealt in on a "recognised investment exchange".

In relation to both stamp duty (by virtue of section 85(5) of the Finance Act 1986) and stamp duty reserve tax (by virtue of section 89(3)(*b*)(iv) of that Act as substituted by these Regulations) a "recognised investment exchange" means such an exchange within the meaning of the Financial Services Act 1986.

Regulation 1 provides the title and commencement date.

Regulation 2 provides for the substitution for section 81(3) of the Finance Act 1986 of a subsection containing a different definition of "market maker" for the purpose of the section.

Regulation 3 provides for the substitution for section 89(3) of the Act of a similarly different definition for the purposes of the section.