



Number 11 of 2007

FINANCE ACT 2007

ARRANGEMENT OF SECTIONS

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

Interpretation

Section

1. Interpretation (*Part 1*).

CHAPTER 2

Income Tax

2. Amendment of section 15 (rate of charge) of Principal Act.
3. Personal tax credits.
4. Age exemption.
5. Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.
6. Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.
7. Amendment of section 122 (preferential loan arrangements) of Principal Act.
8. Employees of certain agencies: foreign service allowances.
9. Personal reliefs: returns of certain information by third parties, etc.
10. Amendment of section 126 (tax treatment of certain benefits payable under Social Welfare Acts) of Principal Act.
11. Exemption from tax on certain income.
12. Exemption in respect of certain expense payments.

13. Amendment of Schedule 13 (accountable persons for purposes of Chapter 1 of Part 18) to Principal Act.
14. Amendment of section 216A (rent-a-room relief) of Principal Act.
15. Amendment of section 216C (childcare services relief) of Principal Act.
16. Amendment of section 664 (relief for certain income from leasing of farm land) of Principal Act.
17. Retirement benefits.
18. Provisions relating to Chapter 2A (limitation on amount of certain reliefs used by certain high income individuals) of Part 15 of Principal Act.

CHAPTER 3

Income Tax, Corporation Tax and Capital Gains Tax

19. Amendment of Part 16 (income tax relief for investment in corporate trades — business expansion scheme and seed capital scheme) of Principal Act.
20. Amendment of Part 40 (appeals) of Principal Act.
21. Amendment of section 373 (interpretation (Part 11)) of Principal Act.
22. Amendment of section 657A (taxation of certain farm payments) of Principal Act.
23. Restructuring aid for sugar beet growers.
24. Amendment of Chapter 2 (farming: relief for increase in stock values) of Part 23 of Principal Act.
25. Amendment of section 669A (interpretation) of Principal Act.
26. Taxation of stallion profits and gains.
27. Amendment of Schedule 26A (donations to approved bodies, etc.) to Principal Act.
28. Capital allowances for qualifying residential units associated with registered nursing homes.
29. Mid-Shannon corridor tourism infrastructure investment scheme.
30. Amendment of section 1008 (separate assessment of partners) of Principal Act.
31. Amendment of Chapter 2 (payments to subcontractors in certain industries) of Part 18 of Principal Act.
32. Amendment of Part 36A (special savings incentive accounts) of Principal Act.

33. Amendment of Part 36B (pensions: incentive tax credits) of Principal Act.
34. Certain interest payments by deposit takers.
35. Relief from double taxation.
36. Unilateral relief from double taxation.
37. Amendment of section 81 (general rule as to deductions) of Principal Act.
38. Dividend withholding tax.
39. Amendment of Part 27 (unit trusts and offshore funds) of Principal Act.
40. Investment undertakings and certain offshore funds: taxation of personal portfolio investment undertakings.
41. Amendment of section 739D (gain arising on a chargeable event) of Principal Act.
42. Amendment of section 730H (interpretation and application) of Principal Act.
43. Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act.
44. Amendment of Chapter 1 (transfer of assets abroad) of Part 33 of Principal Act.
45. Amendment of section 234 (certain income derived from patent royalties) of Principal Act.

CHAPTER 4

Corporation Tax

46. Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.
47. Amendment of section 958 (date for payment of tax) of Principal Act.
48. Group relief for certain foreign losses.
49. Amendment of section 79B (matching of foreign currency assets with certain foreign currency share capital) of Principal Act.
50. Amendment of section 452 (application of section 130 to certain interest) of Principal Act.
51. Amendment of section 486B (relief for investment in renewable energy generation) of Principal Act.

CHAPTER 5

Capital Gains Tax

52. Amendment of Chapter 6 (transfers of business assets) of Part 19 of Principal Act.

53. Amendment of section 603A (disposal of site to child) of Principal Act.
54. Amendment of Schedule 15 (list of bodies for purposes of section 610) to Principal Act.
55. Amendment of section 746 (offshore income gains accruing to persons resident or domiciled abroad) of Principal Act.
56. Amendment of section 980 (deduction from consideration on disposal of certain assets) of Principal Act.

PART 2

EXCISE

57. Amendment of section 144 (power to deal with seizures, before and after condemnation) of Finance Act 2001.
58. Miscellaneous excise repeals.
59. Rates of mineral oil tax.
60. Mineral oil tax rates for substitute fuels.
61. Mineral oil tax offences.
62. Rates of tobacco products tax.
63. Amendment of section 130 (interpretation) of Finance Act 1992.
64. Amendment of section 135 (temporary exemption from registration) of Finance Act 1992.
65. Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles, or certain flexible fuel vehicles, or certain electric vehicles.
66. Amendment of section 21 (hours of business in registered premises) of Betting Act 1931.
67. Excise duty on registration of firearms dealers.
68. Excise duty on firearm certificate.
69. Excise duty on firearm certificate for non-resident.
70. Excise duty on authorisation of rifle or pistol club or shooting range.
71. Excise duty on firearms training certificate.
72. Excise duty on licence for reloading of ammunition.
73. Excise duty on authorisation to possess, use, carry, sell or expose for sale a restricted firearm.
74. Excise: designation of secure premises for keeping of detained or seized goods.

PART 3

VALUE-ADDED TAX

75. Interpretation (*Part 3*).
76. Amendment of section 3 (supply of goods) of Principal Act.
77. Amendment of section 5 (supply of services) of Principal Act.
78. Amendment of section 7 (waiver of exemption) of Principal Act.
79. Amendment of section 8 (taxable persons) of Principal Act.
80. Amendment of section 10 (amount on which tax is chargeable) of Principal Act.
81. Amendment of section 10A (margin scheme goods) of Principal Act.
82. Amendment of section 10B (special scheme for auctioneers) of Principal Act.
83. Amendment of section 12 (deduction for tax borne or paid) of Principal Act.
84. Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.
85. Amendment of section 12B (special scheme for means of transport supplied by taxable dealers) of Principal Act.
86. Amendment of section 12C (special scheme for agricultural machinery) of Principal Act.
87. Amendment of section 14 (determination of tax due by reference to cash receipts) of Principal Act.
88. Amendment of section 15B (goods in transit (additional provisions)) of Principal Act.
89. Amendment of section 16 (duty to keep records) of Principal Act.
90. Amendment of section 17 (invoices) of Principal Act.
91. Amendment of section 25 (appeals) of Principal Act.
92. Amendment of section 32 (regulations) of Principal Act.
93. Amendment of First Schedule to Principal Act.
94. Amendment of Second Schedule to Principal Act.
95. Amendment of Fourth Schedule to Principal Act.
96. Amendment of Sixth Schedule to Principal Act.
97. Miscellaneous amendments relating to Council Directive 2006/112/EC.

98. Revocation, etc. (*Part 3*).

PART 4

STAMP DUTIES

99. Interpretation (*Part 4*).

100. Mortgages.

101. Simplification measures.

102. Amendment of section 81A (further relief from stamp duty in respect of transfers to young trained farmers) of Principal Act.

103. Transfers to young trained farmers and qualifications.

104. Further farm consolidation relief.

105. Approved sports bodies.

106. Amendment of section 83A (transfer of site to child) of Principal Act.

107. Certain family farm transfers.

108. Amendment of section 92B (residential property first time purchaser relief) of Principal Act.

109. Amendment of Part 6 (special provisions relating to uncertificated securities) of Principal Act.

110. Land: special provisions.

111. Amendment of section 159A (time limits for claiming a repayment of stamp duty) of Principal Act.

PART 5

CAPITAL ACQUISITIONS TAX

112. Interpretation (*Part 5*).

113. Amendment of section 18 (computation of tax) of Principal Act.

114. Amendment of section 21 (application of this Act) of Principal Act.

115. Amendment of section 51 (payment of tax and interest on tax) of Principal Act.

116. Amendment of section 86 (exemption relating to certain dwellings) of Principal Act.

117. Amendment of section 89 (provisions relating to agricultural property) of Principal Act.

PART 6

RESIDENTIAL PROPERTY TAX

118. Amendment of section 110A (clearance on sale of certain residential property) of Finance Act 1983.

PART 7

MISCELLANEOUS

119. Interpretation (*Part 7*).
120. Amendment of section 1001 (liability to tax, etc. of holder of fixed charge on book debts of company) of Principal Act.
121. Amendment of provisions relating to interest on repayments.
122. Amendment of section 1003A (payment of tax by means of donation of heritage property to an Irish heritage trust) of Principal Act.
123. Amendment of Part 38 (returns of income and gains, other obligations and returns, and revenue powers) of Principal Act.
124. Amendment of Chapter 4 (revenue powers) of Part 38 of Principal Act.
125. Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.
126. Amendment of section 1078 (revenue offences) of Principal Act.
127. Customs Acts: designation of secure premises for keeping of detained or seized goods.
128. Miscellaneous technical amendments in relation to tax.
129. Care and management of taxes and duties.
130. Short title, construction and commencement.

SCHEDULE 1

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX
CREDITS

SCHEDULE 2

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO
ARRANGEMENTS FOR RELIEF FROM DOUBLE TAXATION

SCHEDULE 3

MISCELLANEOUS AMENDMENTS RELATING TO COUNCIL DIRECTIVE
2006/112/EC

SCHEDULE 4

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

ACTS REFERRED TO

Betting Act 1931	1931, No. 27
Bonded Warehouses Act 1848	11 & 12 Vic., c. 122
Capital Acquisitions Tax Consolidation Act 2003	2003, No. 1
Civil Service Regulation Act 1956	1956, No. 46
Companies Act 1990	1990, No. 33
Corporation Tax Act 1976	1976, No. 7
Criminal Evidence Act 1992	1992, No. 12
Criminal Justice Act 2006	2006, No. 26
Family Law Act 1995	1995, No. 26
Family Law (Divorce) Act 1996	1996, No. 33
Finance (1909-10) Act 1910	10 Edw. 7, c. 8
Finance Act 1925	1925, No. 28
Finance Act 1964	1964, No. 15
Finance Act 1971	1971, No. 23
Finance Act 1983	1983, No. 15
Finance Act 1992	1992, No. 9
Finance Act 1993	1993, No. 13
Finance Act 1998	1998, No. 3
Finance Act 1999	1999, No. 2
Finance Act 2000	2000, No. 3
Finance Act 2001	2001, No. 7
Finance Act 2002	2002, No. 5
Finance Act 2003	2003, No. 3
Finance Act 2004	2004, No. 8
Finance Act 2005	2005, No. 5
Finance Act 2006	2006, No. 6
Finance (Excise Duty on Tobacco Products) Act 1977	1977, No. 32
Firearms Act 1925	1925, No. 17
Firearms (Firearm Certificates for Non-Residents) Act 2000	2000, No. 20
Health Act 1970	1970, No. 1
Housing Act 1988	1988, No. 28
Housing (Private Rented Dwellings) Act 1982	1982, No. 6
Industrial Development Act 1986	1986, No. 9
Industrial Development Act 1995	1995, No. 28
Industrial Development (Science Foundation Ireland) Act 2003	2003, No. 30
Insurance Act 1936	1936, No. 45
Investment Limited Partnership Act 1994	1994, No. 24
Intoxicating Liquor Act 1988	1988, No. 16
Irish Horseracing Industry Act 1994	1994, No. 18
Liqueur Act 1848	11 & 12 Vic., c. 121
Official Secrets Act 1963	1963, No. 1
Pensions (Amendment) Act 2002	2002, No. 18
Planning and Development Act 2000	2000, No. 30
Residential Tenancies Act 2004	2004, No. 27
Social Welfare Act 2000	2000, No. 4
Social Welfare (Consolidation) Act 1993	1993, No. 27
Social Welfare Consolidation Act 2005	2005, No. 26

[2007.]	<i>Finance Act 2007.</i>	[No. 11.]
	Stamp Duties Consolidation Act 1999	1999, No. 31
	Taxes Consolidation Act 1997	1997, No. 39
	Tourist Traffic Acts 1939 to 2003	
	Unit Trusts Act 1990	1990, No. 37
	Value-Added Tax Act 1972	1972, No. 22
	Value-Added Tax Acts 1972 to 2006	
	Waiver of Certain Tax, Interest and Penalties Act 1993	1993, No. 24
	Wildlife Acts 1976 and 2000	



Number 11 of 2007

FINANCE ACT 2007

AN ACT TO PROVIDE FOR THE IMPOSITION, REPEAL, REMISSION, ALTERATION AND REGULATION OF TAXATION, OF STAMP DUTIES AND OF DUTIES RELATING TO EXCISE AND OTHERWISE TO MAKE FURTHER PROVISION IN CONNECTION WITH FINANCE INCLUDING THE REGULATION OF CUSTOMS.

[2nd April, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

Interpretation

1.—In this Part “Principal Act” means the Taxes Consolidation Act 1997. Interpretation
(Part 1).

CHAPTER 2

Income Tax

2.—As respects the year of assessment 2007 and subsequent years of assessment, section 15 of the Principal Act is amended— Amendment of
section 15 (rate of
charge) of Principal
Act.

(a) by substituting “€25,000” for “€23,000” (inserted by the Finance Act 2006) in subsection (3), and

(b) by substituting the following Table for the Table (as so inserted) to that section:

“TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €34,000	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €38,000	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €43,000	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

”.

Personal tax credits. 3.—(1) Where an individual is entitled under a provision of the Principal Act mentioned in *column (1)* of the Table to this subsection to have the income tax to be charged on the individual, other than in accordance with the provisions of section 16(2) of the Principal Act, reduced for the year of assessment 2007 or any subsequent year of assessment and the amount of the reduction would, but for this section, be an amount which is the lesser of—

- (a) the amount specified in *column (2)* of that Table, and
- (b) the amount which reduces that liability to nil,

the amount of the reduction in accordance with *paragraph (a)* shall be the amount of the tax credit specified in *column (3)* of the Table.

TABLE

Statutory Provision (1)	Existing tax credit (2)	Tax credit for the year 2007 and subsequent years (3)
Section 461 (basic personal tax credit)		
(married person)	€3,260	€3,520
(widowed person bereaved in year of assessment)	€3,260	€3,520
(single person)	€1,630	€1,760

Statutory Provision (1)	Existing tax credit (2)	Tax credit for the year 2007 and subsequent years (3)
Section 461A (additional tax credit for certain widowed persons)	€500	€550
Section 462 (one-parent family tax credit)	€1,630	€1,760
Section 463 (widowed parent tax credit)		
(1st year)	€3,100	€3,750
(2nd year)	€2,600	€3,250
(3rd year)	€2,100	€2,750
(4th year)	€1,600	€2,250
(5th year)	€1,100	€1,750
Section 464 (age tax credit)		
(married person)	€500	€550
(single person)	€250	€275
Section 465 (incapacitated child tax credit)	€1,500	€3,000
Section 468 (blind person's tax credit)		
(blind person)	€1,500	€1,760
(both spouses blind)	€3,000	€3,520
Section 472 (employee tax credit)	€1,490	€1,760

(2) Section 3 (as amended by the Finance Act 2006) of the Finance Act 2002 shall have effect subject to the provisions of this section.

(3) *Schedule 1* shall apply for the purposes of supplementing *subsection (1)*.

4.—As respects the year of assessment 2007 and subsequent years of assessment, section 188 of the Principal Act is amended, in subsection (2), by substituting “€38,000” for “€34,000” (inserted by the Finance Act 2006) and “€19,000” for “€17,000” (as so inserted). Age exemption.

5.—Section 473 of the Principal Act is amended, as respects the year of assessment 2007 and subsequent years of assessment, by the substitution in subsection (1) of the following definition for the definition of “specified limit” (inserted by the Finance Act 2006): Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.

“ ‘specified limit’, in relation to an individual for a year of assessment, means—

(a) in the case of—

(i) a married person assessed to tax in accordance with section 1017, or

(ii) a widowed person,

€3,600; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €7,200, and

(b) in any other case, €1,800; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €3,600;”.

Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.

6.—As respects the year of assessment 2007 and subsequent years of assessment, section 244 of the Principal Act is amended in the definition of “relievable interest” in subsection (1)(a)—

(a) by substituting “€6,000” for “€5,080”,

(b) by substituting “€3,000” for “€2,540”,

(c) by substituting “€16,000” for “€8,000”, and

(d) by substituting “€8,000” for “€4,000”.

Amendment of section 122 (preferential loan arrangements) of Principal Act.

7.—As respects the year of assessment 2007 and subsequent years of assessment, section 122 of the Principal Act is amended in the definition of “the specified rate” in subsection (1)(a)—

(a) by substituting “4.5 per cent” for “3.5 per cent” (inserted by the Finance Act 2004) in both places where it occurs, and

(b) by substituting “12 per cent” for “11 per cent” (inserted by the Finance Act 2003).

Employees of certain agencies: foreign service allowances.

8.—(1) The Principal Act is amended in Chapter 1 of Part 7 by inserting the following after section 196A (inserted by the Finance Act 2005):

“196B.—(1) (a) In this section ‘emoluments’ means emoluments to which section 985A applies.

(b) The agencies to which this section applies are as follows:

(i) Enterprise Ireland;

(ii) An Bord Bia;

(iii) Tourism Ireland Ltd;

(iv) The Industrial Development Agency (Ireland).

(2) Where any allowance to, or emoluments of, employees of the agencies to which this section applies are certified by the Minister for Finance, having consulted with the Minister for Foreign Affairs, or with such Minister of the Government as the Minister for Finance considers appropriate in the circumstances, to represent compensation for the extra cost of having to live

outside the State in order to perform his or her duties, that allowance, or those emoluments, shall be disregarded as income for the purposes of the Income Tax Acts.”.

(2) This section is deemed to have taken effect as on and from 1 January 2007.

9.—(1) The Principal Act is amended—

Personal reliefs:
returns of certain
information by third
parties, etc.

(a) in section 459 by inserting the following after subsection (5):

“(6) Where, on the basis of the information furnished to them under section 894A(2) or any other information in their possession, the Revenue Commissioners are satisfied as to the title of an individual to relief under any of the provisions specified in the Table to section 458 or under section 187 or 188 then, notwithstanding any other provision of the Income Tax Acts to the contrary, if the Revenue Commissioners consider it appropriate in the circumstances, the relief due may be given to the individual without the making of and proving of a claim for that relief.”.

(b) in section 469—

(i) in subsection (1)—

(I) in paragraph (i) of the definition of “health expenses” by substituting “person” for “dependant of the individual referred to in paragraphs (a) and (b)(ii) of the definition of dependant”, and

(II) by deleting the definitions of “dependant”, “qualified person” and “relative”,

(ii) by substituting the following for subsection (2):

“(2) Subject to this section, where an individual for a year of assessment proves that in the year of assessment he or she defrayed health expenses incurred for the provision of health care, the individual shall be entitled, for the purpose of ascertaining the amount of the income on which he or she is to be charged to income tax, to have a deduction made from his or her total income of the amount proved to have been so defrayed.”.

and

(iii) by inserting the following after subsection (6):

“(7) Where relief is given under this section to any individual in respect of an amount used to defray health expenses, relief shall not be given under any other provision of the Income Tax Acts to that individual in respect of that amount.”.

(c) in section 472C (inserted by the Finance Act 2001)—

- (i) in subsection (7), by substituting “may on receipt of a request” for “shall on receipt of a request”, and
- (ii) by inserting the following after subsection (7):

“(7A) Notwithstanding the provisions of any other enactment, where trade union subscriptions of employees of an employer are deducted by the employer from the emoluments of those employees and remitted to the trade union concerned, the employer may, for the purposes of enabling that trade union to make a return under the provisions of subsection (7) and for that purpose only, on receipt of a request in that behalf from the trade union furnish to the trade union the names and the Personal Public Service Numbers of the employees who are members of that trade union, and only those employees, from whose emoluments those deductions have been made.”,

(d) in section 473A (inserted by the Finance Act 2001)—

- (i) in subsection (1), by deleting the definition of “dependant”,
- (ii) in subsection (2), by deleting “, on his or her own behalf or on behalf of his or her dependant.”,
- (iii) in subsection (4), by substituting “the person by whom the course is being, or was, undertaken” for “his or her dependant”,
- (iv) in subsection (6)(b), by deleting “by the individual or his or her dependant”, and
- (v) by inserting the following after subsection (8):

“(9) Where relief is given under this section to any individual in respect of a payment of qualifying fees, relief shall not be given under any other provision of the Income Tax Acts to that individual in respect of that payment.”,

and

(e) in Chapter 3 of Part 38, by inserting the following after section 894:

“Returns by third parties in relation to personal reliefs.

894A.—(1) In this section—

‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘personal relief’ means a relief under any of the provisions specified in the Table to section 458.

(2) Where a person is in possession of information concerning expenditure defrayed by an individual that is relevant to

establishing the title of that individual to a personal relief, or the amount of such a relief, that person may, notwithstanding anything contained in any other enactment or any obligation to maintain secrecy or other restriction on the disclosure of information, furnish details regarding the amount of such expenditure to the Revenue Commissioners if requested by them to do so.

(3) Information furnished to the Revenue Commissioners in accordance with subsection (2) shall, unless the Revenue Commissioners otherwise direct, be in an electronic format approved by the Revenue Commissioners and shall contain the name and address and, where known, the PPS Number of the individual in relation to whom the information is being furnished.

(4) Notwithstanding any other provision to the contrary, for the purposes of making a return under subsection (3), a person not in possession of the PPS Number of an individual shall be entitled to request that number from the individual and shall inform the individual of the purpose for requesting the number.

(5) Information furnished to them in accordance with subsection (2) shall be used by the Revenue Commissioners only for the purpose of establishing the title of an individual to the personal relief concerned, or the amount of that relief and, notwithstanding section 872, shall be used for no other purpose.

(6) Any act to be performed or function to be discharged by the Revenue Commissioners, which is authorised by this section, may be performed or discharged by any of their officers acting under their authority.”.

- (2) (a) *Paragraphs (a), (c) and (e) of subsection (1) apply with effect from the passing of this Act.*
- (b) *Paragraphs (b) and (d) of subsection (1) apply as respects the year of assessment 2007 and subsequent years of assessment.*

10.—Section 126 of the Principal Act is amended—

- (a) by substituting the following for subsection (1):

“(1) In this section ‘the Acts’ means the Social Welfare Acts.”,

- (b) in subsection (3)—

Amendment of section 126 (tax treatment of certain benefits payable under Social Welfare Acts) of Principal Act.

(i) in paragraph (b) by substituting “section 2(3) of the Social Welfare Consolidation Act 2005” for “section 2(3)(a) of the Social Welfare (Consolidation) Act, 1993”,

(ii) by inserting the following after paragraph (b):

“(c) (i) In this paragraph ‘short-time employment’ has the same meaning as it has for the purposes of the Acts.

(ii) Notwithstanding paragraphs (a) and (b) and the Finance Act 1992 (Commencement of Section 15) (Unemployment Benefit and Pay-Related Benefit) Order 1994 (S.I. No. 19 of 1994), paragraph (b) shall not apply in relation to unemployment benefit paid or payable, to a person employed in short-time employment.”,

and

(c) by deleting subsection (8).

Exemption from tax on certain income.

11.—The Principal Act is amended—

(a) in the definition of “relevant income” in section 189(2)(a) by substituting “section 59, 745 or 747E” for “section 59 or section 745”,

(b) in the definition of “relevant income” in section 189A(4)(a) by substituting “section 59, 745 or 747E” for “section 59 or section 745”, and

(c) in section 192(2) by substituting “section 59, 745 or 747E” for “section 59 or section 745”.

Exemption in respect of certain expense payments.

12.—As respects the year of assessment 2007 and subsequent years of assessment, the Principal Act is amended by inserting the following after section 195:

“195A.—(1) In this section—

‘body’ means an unincorporated body of persons or a body corporate, being—

(a) any board, council or committee, however expressed, or

(b) any body of persons exercising some or all of the functions of such a board, council or committee,

where the duties, other than incidental duties such as attendance at conventions or meetings as delegates on behalf of the body, of the office of members of the body are discharged in the course of meetings of the body concerned, or preparation for such meetings;

‘civil servant’ has the meaning assigned to it by section 1(1) of the Civil Service Regulation Act 1956;

‘member’, in relation to a body, means a person holding office as a member of that body—

- (a) who has no other duties directly or indirectly, whether as an employee of the body or of a person connected with that body, in relation to that body, and
- (b) whose annualised amount of the emoluments from the office for the year of assessment 2006 and for each subsequent year in which the person is a member of the body, other than payments to which this section applies, does not exceed—
 - (i) in the case of a member who is the chairperson of the body, not being a body referred to in paragraph (b) of the definition of ‘body’, €24,000, and
 - (ii) in any other case, €14,000;

‘non-commercial body’ means a body—

- (a) organised solely for purposes other than profit, where the declared purposes of the body can be ascertained from documents of record,
- (b) which, in fact, operates solely for purposes other than profit and, for this purpose, any activity generating income carried on by the body—
 - (i) which is carried on for the purposes of assisting the body to achieve its purposes, and
 - (ii) the income of which is used for those purposes,
 shall be regarded as operating for purposes other than profit, and
- (c) any benefit, or part of the income or accumulated income, of which, cannot be paid to, or cannot otherwise be made available to, any officer, employee or member of the body for the personal benefit of that person or a person connected with that person other than—
 - (i) any wages, salaries, fees or honorariums for services rendered to the body but only if the amounts paid are no more than reasonable amounts that would be paid in a transaction at arm’s length for similar services by a body organised solely for purposes other than profit, being a body operating in accordance with paragraph (b),
 - (ii) any payment to which this section applies,
 - (iii) any payment made to officers, employees or members to assist in the covering of expenses to attend conventions or meetings as delegates on

behalf of the body where such attendance is to further the purposes of the body, and

- (iv) where the officer, employee or member concerned, or a person connected with such officer, employee or member, is also an object of the purposes of the body, a benefit which is in furtherance of the purposes of the body.

(2) This section applies to payments made by a non-commercial body to or on behalf of a member of the body in respect of expenses of travel and subsistence incurred by the member in the attendance by him or her at meetings of the body.

(3) So much of any payments to which this section applies, as does not exceed the upper of any relevant rate or rates laid down from time to time by the Minister for Finance in relation to the payment of expenses of travel and subsistence of a civil servant, shall be disregarded for all the purposes of the Income Tax Acts.”.

Amendment of Schedule 13 (accountable persons for purposes of Chapter 1 of Part 18) to Principal Act.

13.—(1) Schedule 13 to the Principal Act is amended—

- (a) by substituting the following for paragraph 5:

“5. Primary Care Reimbursement Service.”,

- (b) by substituting the following for paragraph 118:

“118. National Sports Campus Development Authority.”,

- (c) by deleting paragraphs 4 and 147, and

- (d) by inserting the following after paragraph 157 (inserted by the Finance Act 2006):

“158. The Road Safety Authority.

159. Grangegorman Development Agency.

160. The Railway Safety Commission.

161. The Teaching Council.

162. EirGrid.

163. The Further Education and Training Awards Council.

164. Irish Auditing and Accounting Supervisory Authority.”.

- (2) (a) *Subsection (1)(a)* is deemed to have taken effect as and from 1 January 2005.

- (b) *Subsection (1)(b)* is deemed to have taken effect as and from 1 January 2007.

- (c) *Subsection (1)(c)* is deemed to have taken effect as and from 1 January 2007.

(d) Subsection (1)(d) takes effect as and from 1 May 2007.

14.—As respects the year of assessment 2007 and subsequent years of assessment, section 216A of the Principal Act is amended by inserting the following after subsection (3):

Amendment of section 216A (rent-a-room relief) of Principal Act.

“(3A) Subsection (2) shall not apply for a year of assessment where the relevant sums arising to the individual are received from a child of the individual.”.

15.—Section 216C of the Principal Act is amended in subsection (5) by substituting “€15,000” for “€10,000”.

Amendment of section 216C (childcare services relief) of Principal Act.

16.—(1) Section 664 of the Principal Act is amended—

Amendment of section 664 (relief for certain income from leasing of farm land) of Principal Act.

(a) in subsection (1)(a) in the definition of “the specified amount”—

(i) in paragraph (ii)(VI)(B) of that definition by deleting “or” where it last occurs,

(ii) by substituting the following for paragraph (ii)(VII) of that definition:

“(VII) in the period beginning on 1 January 2006 and ending on 31 December 2006—

(A) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(B) €12,000, in any other case,

or

(VIII) on or after 1 January 2007—

(A) €20,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 10 years or more,

(B) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, other than a case to which clause (A) applies, and

(C) €12,000, in any other case,”

and

(iii) in paragraph (iii) of that definition by substituting “subparagraph (I), (II), (III), (IV), (V), (VI), (VII) or (VIII), as may be appropriate, of paragraph (ii)

of this definition” for “clause (I), (II), (III), (IV) or (V), as may be appropriate, of subparagraph (ii)”,

and

(b) in subsection (1)(b) by substituting the following for subparagraph (v):

“(v) from a qualifying lease or qualifying leases made in the period beginning on 1 January 2006 and ending on 31 December 2006, and from a qualifying lease made before 1 January 2006, the specified amount shall not exceed—

(I) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(II) €12,000, in any other case;

(vi) from a qualifying lease or qualifying leases made on or after 1 January 2007, and from a qualifying lease made at any other time, the specified amount shall not exceed—

(I) €20,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 10 years or more,

(II) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, other than a case to which clause (I) applies, and

(III) €12,000, in any other case.”.

(2) (a) Subject to *paragraph (b)*, *subsection (1)* applies as follows:

(i) as respects *subparagraphs (i) and (ii) of paragraph (a) and paragraph (b)*, as on and from 1 January 2007; and

(ii) as respects *paragraph (a)(iii)*, as on and from 1 February 2007.

(b) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Retirement
benefits.

17.—(1) Part 30 of the Principal Act is amended—

(a) in Chapter 1 by inserting the following after section 772:

“Approval of
retirement
benefits
products.

772A.—(1) In this section—

‘promoter’ means a person lawfully carrying on the business of granting annuities on human life and, where that person—

(a) is not resident in the State, or

(b) is not trading in the State through a fixed place of business,

that person is an insurance undertaking authorised to transact insurance business in the State under Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002¹;

‘retirement benefits product’ means a product for the provision of relevant benefits in respect of which an application for approval has been made by a promoter to the Revenue Commissioners under this section and under which, if and when approved, a single member retirement benefits scheme may be established by way of a contract entered into with the promoter to secure the scheme;

‘single member retirement benefits scheme’, in relation to a retirement benefits product, means a retirement benefits scheme that relates to a single employee;

‘terms and rules’, in relation to a retirement benefits product, means the provisions governing a retirement benefits scheme to be established under the product, by whatever name such provisions are called.

(2) Subject to this section, the Revenue Commissioners may, if they think fit, and subject to such conditions, if any, as they think proper to attach to the approval, approve a retirement benefits product for the purposes of this Chapter.

(3) Subject to subsection (6), a retirement benefits scheme, established under a retirement benefits product for the time being approved by the Revenue Commissioners under subsection (2), shall be taken to be a retirement benefits scheme for the time being approved by the Revenue Commissioners for the purposes of this Chapter, and the provisions of this Chapter shall apply accordingly, except as otherwise provided for by this section.

(4) For the purposes of approval under subsection (2), the promoter of a retirement benefits product shall make an application to the Revenue Commissioners in writing and the application shall be in such form and contain such information and particulars as the Revenue Commissioners may from time to time determine.

¹OJ No. L345, 19.12.2002, p.1

(5) The Revenue Commissioners shall not approve a retirement benefits product unless the terms and rules provide that—

(a) contributions to be paid in any year, whether by an employee or by, or on behalf of, an employer in respect of that employee, may not, when aggregated, exceed the aggregate amount of annual contributions allowed to be deducted in any year by an individual in accordance with section 774(7)(c), and

(b) the provisions of section 772(3A) apply.

(6) Where an alteration has been made to the terms and rules governing a retirement benefits scheme established under a retirement benefits product for the time being approved by the Revenue Commissioners under subsection (2), then no approval taken to be given to the scheme for the time being under subsection (3) before the date of the alteration shall apply after the date of the alteration unless the alteration has been approved by the Revenue Commissioners.

(7) Where in the opinion of the Revenue Commissioners the facts concerning any retirement benefits product cease to warrant the continuance of their approval of the product, then they may at any time, by notice in writing to the promoter, withdraw their approval on such grounds, and from such date, as may be specified in the notice.

(8) Where approval of a product is withdrawn pursuant to subsection (7), there shall be made such assessments or amendment of assessments as may be appropriate for the purpose of withdrawing any relief given under this Chapter consequent on the grant of the approval.

(9) Where an alteration has been made to a retirement benefits product, then no approval given as regards the product before the alteration shall apply after the date of the alteration unless the alteration has been approved by the Revenue Commissioners.”,

(b) in Chapter 2, in section 784A(1BA)(b) by substituting “not later than the second month of the year of assessment” for “in the first month of the year of assessment”, and

(c) in Chapter 2C—

- (i) in section 787O by inserting the following after subsection (4):

“(5) (a) In this subsection—

‘applied’, in relation to a transfer amount, means the application of the transfer amount in accordance with subsection (5), (6), (8) or (9) of section 12 of the Family Law Act 1995 or, as the case may be, subsection (5), (6), (8) or (9) of section 17 of the Family Law (Divorce) Act 1996;

‘pension adjustment order’ means an order made in accordance with section 12(2) of the Family Law Act 1995 or, as the case may be, section 17(2) of the Family Law (Divorce) Act 1996 or any variation of such an order made by an order under section 18(2) or, as the case may be, section 22(2), respectively, of those Acts, the operation of which has not been suspended (or if suspended, or further suspended, has been revived) or discharged by an order made under the said section 18(2) or, as the case may be, section 22(2) of those Acts;

‘designated benefit’ and ‘transfer amount’ have the meaning and construction assigned to them, respectively, in section 12 of the Family Law Act 1995 or, as the case may be, section 17 of the Family Law (Divorce) Act 1996.

- (b) For the purposes of this Chapter and Schedule 23B, where, on or after the specified date, an individual is a member of a relevant pension arrangement and the relevant pension arrangement is, or becomes, subject to a pension adjustment order, then, notwithstanding the pension adjustment order, in calculating the amount crystallised by a benefit crystallisation event occurring on or after the specified date in relation to the individual under the relevant pension arrangement—
- (i) the designated benefit payable pursuant to the order, or
- (ii) where the transfer amount has been applied, the designated benefit that would have been payable pursuant to the order if the transfer amount had not been so applied,

in respect of that benefit crystallisation event, shall be included in that calculation as if the pension adjustment order had not been made.”,

and

- (ii) in section 787R(1)(a) by substituting “at the rate of 41 per cent” for “at the rate of 42 per cent”.
- (2) (a) Subject to paragraphs (b), (c) and (d), subsection (1) has effect as on and from the date of passing of this Act.
- (b) Paragraph (b) of subsection (1) shall be taken to have effect as on and from 1 January 2006.
- (c) Paragraph (c)(i) of subsection (1) shall be taken to have effect as on and from 7 December 2005.
- (d) Paragraph (c)(ii) of subsection (1) shall have effect as on and from 1 January 2007.

Provisions relating to Chapter 2A (limitation on amount of certain reliefs used by certain high income individuals) of Part 15 of Principal Act.

18.—(1) Chapter 2A of Part 15 of the Principal Act is amended—

(a) in section 485C—

(i) in subsection (1)—

(I) by substituting “In this Chapter and in Schedules 25B and 25C,” for “In this Chapter and Schedule 25B,”,

(II) by substituting the following for the construction of “T” in the formula to the definition of “adjusted income”:

“T is the amount of the individual’s taxable income for the tax year determined on the basis that—

(a) this Chapter, other than section 485F, does not apply to the individual for the tax year, and

(b) if the individual, being a married person, is assessable to tax for the tax year otherwise than under section 1016, the provisions under which the individual is assessable are modified in accordance with paragraphs (i) to (vi) of section 485FA,”

(III) by inserting the following after the definition of “excess relief”:

“ ‘Revenue officer’ means an officer of the Revenue Commissioners;”

(IV) by substituting the following paragraphs for paragraph (b) of the definition of “ring-fenced income”:

“(b) income referred to in section 261B or 267M,

(c) income charged to tax in accordance with clause (I) or (II)(B) of section 730J(1)(a)(i) or section 730K(1)(b), and

(d) income charged to tax in accordance with section 747D(a)(i) or section 747E(1)(b);”,

and

(V) by substituting “any relief arising under, or by virtue of, any of the provisions” for “any of the reliefs” in the definition of “specified relief”,

(ii) by substituting the following paragraphs for paragraph (a) of subsection (3):

“(a) where, in relation to any tax year and the capital allowances to be given effect to in that year, any provision of the Tax Acts requires allowances (in this paragraph referred to as the ‘first-mentioned allowances’) for one period to be given effect to, or to be deemed to be given effect to, in priority to allowances for another period (in this paragraph referred to as the ‘second-mentioned allowances’), then—

(i) as respects the first-mentioned allowances, effect shall be given, or be deemed to be given, as the case may be, for an allowance which is not a specified relief in priority to any such allowance which is a specified relief and in priority to the second-mentioned allowances, and

(ii) as respects the second-mentioned allowances, effect shall be given, or be deemed to be given, as the case may be, for an allowance which is not a specified relief in priority to any such allowance which is a specified relief,

(ab) a deduction authorised by subsection (2) of section 97 shall be allowed in respect of a matter which is specifically referred to in that subsection in priority to a deduction authorised to be made under that subsection by virtue of a specified relief,

(ac) a deduction from total income shall be made in respect of a relief due for a tax year which is not a specified relief in priority to any such deduction due for the tax year which is a specified relief.”,

and

(iii) by substituting the following for subsection (4):

“(4) Schedules 25B and 25C shall have effect for the purposes of this Chapter.”,

- (b) in section 485D(b) by substituting “the specified reliefs used by the individual in respect of the tax year” for “the specified reliefs used by the individual in the tax year”,
- (c) by substituting “sections 485F and 485FA” for “section 485F” in the construction of “T” in the formula in section 485E,
- (d) by inserting the following after section 485F:

“Adaptation of provisions relating to taxation of married persons.

485FA.—Where this Chapter applies to an individual or his or her spouse for a tax year, and—

- (a) an election under section 1018 (including a deemed election under that section) to be assessed to tax in accordance with section 1017 has effect for the tax year,
- (b) an application under section 1023 has effect for that year, or
- (c) the provisions of section 1019(3) apply for that year,

in respect of the individual and his or her spouse, then the following provisions shall apply:

- (i) the definition of ‘chargeable tax’ in section 3(1) shall apply as if the references to total income were references to taxable income;
- (ii) subsection (1) of section 1017 shall apply as if the following paragraph was substituted for paragraph (a) of that subsection:
 - ‘(a) the husband shall be assessed and charged to income tax, not only in respect of his taxable income (if any) for that year, but also in respect of his wife’s taxable income (if any) for any part of that year of assessment during which she is living with him and, for this purpose and for the purposes of the Income Tax Acts, the last-mentioned income shall be deemed to be his income.’;
- (iii) the references to total income in—

(I) subsection (3),

- (II) paragraph (a) of subsection (4) other than the references in subparagraph (ii) of that paragraph, and
- (III) subsection (4)(b),
 - of section 1019 shall be construed as references to taxable income;
- (iv) the reference to so assessed and charged for each subsequent year of assessment in section 1019(4)(a) shall be construed as a reference to—
 - (I) assessed and charged in respect of her taxable income (if any) and the taxable income (if any) of her husband for each subsequent year of assessment, where this Chapter applies for a tax year to either or both spouses, and
 - (II) assessed and charged in respect of her total income (if any) and the total income (if any) of her husband for each subsequent year of assessment, in any other case;
- (v) the reference to so assessed to income tax for the year of assessment in which that notice or application is withdrawn and for each subsequent year of assessment in section 1019(4)(b) shall be construed as a reference to—
 - (I) assessed to income tax in respect of her own taxable income (if any) and the taxable income (if any) of her husband for the year of assessment in which that notice or application is withdrawn and for each subsequent year of assessment, where this Chapter applies for a tax year to either or both spouses, and
 - (II) assessed to income tax in respect of her own total income (if any) and the total income (if any) of her husband for the year of assessment in which that

notice or application is withdrawn and for each subsequent year of assessment, in any other case;

and

(vi) where paragraph (a) or (c) apply to an individual and his or her spouse for a tax year, then to the extent that—

(I) the benefit flowing from such deductions as are specified in the provisions referred to in Part 1 of the Table to section 458 for the tax year exceeds the income tax chargeable on the individual's income for the tax year, the balance shall be applied to reduce the income tax chargeable on the income of the individual's spouse for that year, and

(II) the benefit flowing from such deductions exceed the income tax chargeable on the spouse's income for that year, the balance shall be applied to reduce the income tax chargeable on the income of the individual for that year.

Requirement to provide estimates and information.

485FB.—(1) In this section—

'chargeable person' and 'specified return date for the chargeable period' have the same meanings as in Part 41;

'prescribed form' means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners, and includes a form which involves the delivery of a statement by any electronic, photographic or other process approved of by the Revenue Commissioners.

(2) Where this Chapter applies to an individual for a tax year that individual shall, if not otherwise a chargeable person, be deemed to be a chargeable person for such year for the purposes of Part 41.

(3) Where this Chapter applies to an individual for a tax year that individual shall, in addition to the return required to be delivered under section 951, prepare and deliver to the Collector-General at the

same time as, and together with, the return required under section 951 on or before the specified return date for the chargeable period a full and true statement in a prescribed form of the details required by the form in respect of—

- (a) the amounts constituting the aggregate of the specified reliefs,
- (b) the determination of those amounts, and
- (c) the estimates required by subsection (4),

and of such further particulars in relation to this Chapter as may be required by the prescribed form.

(4) The estimates required by this subsection are estimates of—

- (a) the individual's taxable income for the year determined as if this Chapter, other than section 485F, did not apply to the individual for that year,
- (b) the individual's taxable income determined in accordance with section 485E, and
- (c) the amount of tax that should be assessed on the individual as a consequence of the application of this Chapter,

which estimates shall be made to the best of the individual's knowledge and belief.

(5) Where this Chapter applies to both a husband and a wife, not being persons to whom section 1016 applies, then separate statements under this section shall be required from both the husband and the wife and both statements shall be made on the same prescribed form (in this subsection referred to as a 'combined statement') and references in this section, other than in this subsection, to a statement required to be delivered under this section shall include references to a combined statement.

- (6) (a) For the purposes of determining—
 - (i) the accuracy or otherwise of any details, particulars or estimates contained in the statement referred to in subsection (3), or

- (ii) whether or not an individual who has not provided a statement under this section is an individual to whom this Chapter applies,

a Revenue officer may make such enquiries or take such actions within his or her powers as he or she considers necessary for the purposes of determining the matters set out in subparagraph (i) or (ii), including, in the case of subparagraph (ii), requiring by notice in writing the individual to furnish in writing to the officer within such time, not being less than 14 days, as may be provided by the notice, details of each provision in respect of which the individual is claiming tax relief for a tax year together with the amount of each separate claim and the particulars of each separate claim under that provision.

- (b) Subparagraph (ii) of paragraph (a) shall only apply to an individual who has made a return under section 951 for a tax year and whose income, including income exempt from tax, from all sources and disregarding all deductions, allowances and other tax reliefs is equal to or greater than the threshold amount.

(7) Subsections (9) and (10) of section 951 shall apply to a statement required to be delivered under this section in the same way as they apply to a return required to be delivered under that section, and for this purpose a reference in those subsections to a return, other than a reference to the specified return date for the chargeable period, shall be construed as a reference to a statement under this section.

(8) Section 1052 shall apply to a failure by an individual to deliver a statement under this section or the details, amounts and particulars referred to in subsection (6) as it applies to a failure to deliver a return referred to in section 1052.”,

and

(e) in section 485G—

- (i) by substituting the following for subparagraph (i) of subsection (2)(a):

“(i) for the purposes of Part 9 and that Part as applied for the purposes of any other provision of the Tax Acts, the amount of any specified relief used by the individual in the tax year shall be determined without regard to the application to the individual for that year of section 485E,”,

- (ii) in subparagraph (iii) of subsection (2)(a) by substituting for “the amount of the individual’s excess relief for the year in which the balancing charge arises plus any excess relief carried forward to that year and not deducted or not fully deducted for that year” the following:

“the sum of—

- (I) the amount of the individual’s excess relief for the year in which the balancing charge arises, and
- (II) the amount of any excess relief carried forward to that year that is not deducted for that year,”

- (iii) by substituting the following for clause (I) of subsection (2)(b)(i):

“(I) the amount of the individual’s excess relief carried forward to the year in which the balancing charge arises and not deducted or not fully deducted for that year, before any reduction by reference to paragraph (a)(iii), and”

and

- (iv) by substituting the following for subsection (3):

“(3) (a) Where this Chapter applies to an individual for a tax year, then, to the extent that the individual’s taxable income determined in accordance with section 485E exceeds the amount of the profits, gains or income in respect of which the individual is chargeable under Schedules C, D, E and F the amount of the excess shall, notwithstanding any other provision of the Tax Acts, be deemed to be an amount of income chargeable to income tax under Case IV of Schedule D, but—

- (i) the amount so chargeable shall not be reckoned in computing the individual’s total income for that year, and

(ii) this paragraph shall be disregarded for the purpose of determining—

(I) whether this Chapter should apply to an individual for a tax year, and

(II) the amount of “T” in the formula in the definition of ‘adjusted income’ in section 485C(1) and in the formula in section 485E.

(b) Any assessment to income tax to be made on an individual for a tax year shall, notwithstanding any other provision of the Tax Acts, include, in addition to any income, profits or gains of the individual otherwise chargeable to income tax, any amount chargeable to income tax on the individual by virtue of paragraph (a), and the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects any amount chargeable to income tax by virtue of paragraph (a).

(c) Where, but for this Chapter, no assessment to income tax would be made on an individual for a tax year, then a Revenue officer shall, notwithstanding any other provision of the Tax Acts, make an assessment to income tax on the individual to the best of the officer’s judgement of the amounts chargeable to income tax, including any amount chargeable by virtue of paragraph (a), and the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects—

(i) any amount chargeable to income tax by virtue of paragraph (a), and

(ii) any assessment to income tax made on the individual by virtue of this paragraph.”.

(2) Schedule 25B to the Principal Act is amended—

(a) at reference number 13, in column (3), by substituting the following for subparagraph (iii) of paragraph (a):

“(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in section 268(1)(g) by virtue of section 268(3B),

but there shall not be included in the aggregate any allowance referred to in section 272(3)(c)(iii),”

- (b) after the entry at reference number 15, to insert the following:

“

15A	Section 304(4) (income tax: allowances and charges in taxing a trade, etc.).	An amount equal to— (a) as respects the tax year 2007, the amount determined in accordance with paragraph 1 of Schedule 25C as referable to specified reliefs less any part of that amount (in this provision referred to as the ‘surplus’) for which effect cannot be given in that tax year, and (b) as respects any subsequent tax year, the surplus or that part of the surplus for which effect is given in that subsequent tax year.
15B	Section 305(1) (income tax: manner of granting, and effect of, allowances made by means of discharge or repayment of tax).	An amount equal to— (a) as respects the tax year 2007, the amount determined in accordance with paragraph 3 of Schedule 25C as referable to specified reliefs less any part of that amount (in this provision referred to as the ‘surplus’) for which effect cannot be given in that tax year, and (b) as respects any subsequent tax year, the surplus or that part of the surplus for which effect is given in that subsequent tax year.

”

- (c) at reference number 38, in column (3), by substituting the following for paragraph (b):

“(b) the amount determined by the formula—

$$(G + E) - (D + R)$$

where—

G is the aggregate of the gross amount of each rent received by the individual for the tax year,

E is the individual’s total receipts from easements for the tax year,

D is the total amount of deductions authorised by section 97(2) to which the individual is entitled for the tax year apart from any deduction authorised by section 372AP or section 372AU, and

R is the amount determined under this Schedule as the amount of specified relief in respect of section 372AP, but the amount so determined shall not exceed the amount determined by the formula—

$$(G + E) - D$$

where G, E and D have the same meanings as they have in the first formula in this paragraph,”

- (d) at reference number 41, in column (3), by substituting “a specified relief” for “capital allowances, being allowances which are specified reliefs”,
- (e) at reference number 43, in column (3), by substituting the following for the existing material:
 “To the extent that the excess referred to in section 384 is referable to a specified relief, the amount of the excess or any portion of the excess that is so referable in respect of which the individual is given relief under that section for the tax year less any part of that excess for which relief cannot be given under that section for that year.”,
- (f) at reference number 51, in column (3), by substituting “deducted from or set off against any income of the individual” for “deducted from the individual’s total income”, and
- (g) at reference number 52, in column (3), by substituting “deducted from or set off against any income of the individual” for “deducted from the individual’s total income”.

(3) The Principal Act is amended by the insertion after Schedule 25B of the following:

“Section 485C.

SCHEDULE 25C

DETERMINATION OF AMOUNT OF RELIEF TO BE TREATED AS REFERABLE TO SPECIFIED RELIEFS AS RESPECTS RELIEF CARRIED FORWARD FROM TAX YEAR 2006 TO TAX YEAR 2007

Determination of amount of capital allowances carried forward under section 304 which are referable to specified reliefs.

1. (1) Where, in relation to any trade or profession carried on by an individual, any allowances or part of any such allowances made under Part 9, including that Part as applied by any other provision of the Tax Acts, for the tax year 2006 to the individual in taxing the individual’s trade or profession—

- (a) are, in accordance with section 304(4), added to the amount of the allowances to be made to the individual under that Part for the tax year 2007, or
- (b) if there are no such allowances in 2007, are, in accordance with that section, deemed to be the allowances under that Part for that year,

then, the amount so added or so deemed (referred to in subparagraph (2) as the ‘relief forward’) which is to be treated as referable to specified

reliefs shall be determined for the tax year 2007 in accordance with subparagraph (2).

(2) The amount referred to in subparagraph (1) is an amount determined in accordance with the formula—

$$\text{RF} \times \frac{\text{SR}}{\text{TR}}$$

where—

RF is the relief forward,

SR is the aggregate of the amounts of the allowances made to the individual under Chapter 1 of Part 9 (being allowances made in respect of a specified relief or specified reliefs) in taxing the trade or profession of the individual in respect of the tax year 2006 and each of the 3 preceding tax years, other than any such allowances or part of such allowances which—

- (a) were added to the allowances to be made for any of those years by section 304(4), or
- (b) were deemed to be the allowances for any of those years by that section,

and

TR is the aggregate of the amounts of the allowances made to the individual under Part 9, including that Part as applied by any other provision of the Tax Acts, in taxing the trade or profession of the individual in respect of the tax year 2006 and each of the 3 preceding tax years, other than any such allowances or part of such allowances which—

- (a) were added to the allowances to be made for any of those years by section 304(4), or
- (b) which were deemed to be the allowances for any of those years by that section.

Determination of amount of losses carried forward under section 382 which are referable to specified reliefs.

2. (1) Where, in relation to any trade or profession carried on by an individual, a loss is carried forward from the tax year 2006 to the tax year 2007 in accordance with section 382, then the amount of the loss so carried forward (in subparagraph (2) referred to as the ‘relief forward’) to be treated as referable to specified reliefs shall, for the purposes of Schedule 25B, be determined for the tax year 2007 in accordance with subparagraph (2).

(2) The amount referred to in subparagraph (1) is the amount determined in accordance with the formula—

$$\text{RF} \times \frac{\text{SR}}{\text{TR}}$$

where—

RF is the amount of the relief forward,

SR is the sum of—

$$(\text{DR} + \text{SA})$$

where—

DR is the aggregate of the amounts of the further deductions the individual was entitled to under sections 324, 333, 345, 354 and paragraph 13 of Schedule 32 in respect of the trade or profession for the tax year 2006 and the 3 preceding tax years, but the amount in respect of each year to be included in the aggregate shall not exceed an amount determined by the formula—

$$(\text{L} - \text{CA})$$

where—

L is the amount of the loss for that year in respect of which the individual was entitled to make a claim under section 381 in respect of that trade or profession, and

CA is the amount of any claim made in that year by the individual in respect of that trade or profession by virtue of the provisions of Chapter 2 of Part 12,

and

SA is the aggregate of the amounts of the allowances made to the individual under Chapter 1 of Part 9, including that Chapter as applied by any other provision of the Tax Acts, (being allowances made in respect of a specified relief or specified reliefs) in taxing the trade or profession of the individual in respect of the tax year 2006 and each of the 3 preceding tax years, other than any such allowances or part of such allowances which—

(a) were added to the allowances to be made for any of those years by section 304(4), or

(b) were deemed to be the allowances for any of those years by that section,

but the allowances made to the individual in respect of any year shall only be included in the aggregate if a claim was made in respect of those allowances for that year by virtue of the provisions of Chapter 2 of Part 12,

TR is the sum of—

(TL + TA)

where—

TL is the aggregate of the amounts of losses eligible for relief under section 381 in respect of that trade or profession for the tax year 2006 and each of the 3 preceding tax years less the amount of any claim made in any of those years by the individual in respect of that trade or profession by virtue of the provisions of Chapter 2 of Part 12, and

TA is the aggregate of the amounts of the allowances made to the individual under Part 9, including that Part as applied by any other provision of the Tax Acts, in taxing the trade or profession of the individual in respect of the tax year 2006 and each of the 3 preceding tax years, other than any such allowances or part of such allowances which—

(a) were added to the allowances to be made for any of those years by section 304(4), or

(b) which were deemed to be the allowances for any of those years by that section,

but the allowances made to the individual in respect of any year shall only be included in the aggregate if a claim was made in respect of those allowances for that year by virtue of the provisions of Chapter 2 of Part 12.

Determination of the amount of capital allowances made in charging income under Case V of Schedule D and carried forward under section 305 that is referable to specified reliefs.

3. (1) Where—

(a) the balance of any allowances or part of such allowances made under Chapter

1 of Part 9, including that Chapter as applied by any other provision of the Tax Acts, for the tax year 2006 to an individual in charging income under Case V of Schedule D, or

- (b) if an election is made in accordance with section 305(1)(b) in respect of those allowances or part of those allowances, the balance of the excess in respect of that year referred to in section 305(1)(b)(ii),

is, in accordance with section 305(1), available for deduction from or set off against the individual's income chargeable under Case V of Schedule D for the tax year 2007, then the amount of the balance or, as the case may be, the amount of the balance of the excess (in subparagraph (2) referred to as the 'relief forward') which is to be treated as referable to specified reliefs shall be determined for the tax year 2007 in accordance with subparagraph (2).

(2) The amount referred to in subparagraph (1) is an amount determined in accordance with the formula—

$$\text{RF} \times \frac{\text{SR}}{\text{TR}}$$

where—

RF is the amount of the relief forward,

SR is the aggregate of the amounts of the allowances (being allowances made in respect of a specified relief or specified reliefs) made to the individual under Chapter 1 of Part 9, including that Chapter as applied by any other provision of the Tax Acts, in charging the individual's income for the tax year 2006 and each of the 3 preceding tax years under Case V of Schedule D, and

TR is the aggregate of the amounts of the allowances made to the individual under Chapter 1 of Part 9, including that Chapter as applied by any other provision of the Tax Acts, in charging the individual's income for the tax year 2006 and each of the 3 preceding tax years under Case V of Schedule D.

Determination of the amount of the excess carried forward under section 384 which is referable to specified reliefs.

4. (1) Where, in accordance with section 384, an excess such as is referred to in that section is carried forward from the tax year 2006 to the tax year 2007 and is available to be deducted from or set off against the amount of the individual's profits or gains chargeable to tax under Case V of

Schedule D, then the amount of the excess so carried forward (in subparagraph (2) referred to as the 'relief forward') which is to be treated as referable to specified reliefs shall, for the purposes of Schedule 25B, be determined for the tax year 2007 in accordance with subparagraph (2).

(2) The amount referred to in subparagraph (1) is an amount determined in accordance with the formula—

$$RF \times \frac{SR}{TR}$$

where—

RF is the amount of the relief forward,

SR is the aggregate of the amounts of the deductions the individual was entitled to deduct under sections 372AP and 372AU, for the tax year 2006 and each of the 3 preceding tax years, and

TR is the aggregate of the amounts of the deductions the individual was entitled to deduct under section 97(2), including deductions authorised under that section by virtue of sections 372AP and 372AU, for the tax year 2006 and each of the 3 preceding tax years.

Right to seek a different apportionment basis.

5. (1) If an individual is not satisfied with the determination of any amount under paragraphs 1 to 4 he or she may apply by notice in writing to the Revenue Commissioners for the amount to be replaced by an amount determined by reference to such longer or shorter continuous period before the tax year 2006, but always including that tax year, that in the opinion of the individual gives a more just and reasonable result.

(2) Where an application is made under subparagraph (1), the Revenue Commissioners shall issue a determination in writing to the individual either accepting the amount or amounts on the basis proposed by the individual, setting out an amount which is just and reasonable determined by reference to some other time period or confirming the amount determined under paragraphs 1 to 4.

(3) If an individual is not satisfied with the determination of the Revenue Commissioners under subparagraph (2), he or she may by notice in writing given to the Revenue Commissioners within 30 days of the receipt of the determination under subparagraph (2) appeal to the Appeal Commissioners.

(4) The Appeal Commissioners shall hear and determine an appeal made to them under subparagraph (3) as if it were an appeal against an assessment to income tax and the provisions of the Income Tax Acts relating to such appeals and to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(5) In considering an application under subparagraph (1) or an appeal under subparagraph (3) neither the Revenue Commissioners nor the Appeal Commissioners shall have any regard to an application or appeal that—

- (a) requires specified reliefs to have been given effect to before reliefs that are not specified reliefs, unless a provision of the Tax Acts authorises such priority, or
- (b) subject to subparagraphs (1) to (4), requires that an amount be determined otherwise than is provided for by this Schedule.

(6) Where an amount determined under paragraph 1, 2, 3 or 4 is replaced by an amount determined in accordance with this paragraph (in this paragraph referred to as the ‘new amount’), the new amount shall be deemed to be the amount determined under paragraph 1, 2, 3 or 4, as the case may be.”.

(4) This section applies for the year of assessment 2007 and subsequent years of assessment.

CHAPTER 3

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of Part 16 (income tax relief for investment in corporate trades — business expansion scheme and seed capital scheme) of Principal Act.

19.—(1) Part 16 of the Principal Act is amended—

- (a) in section 488(1)—
 - (i) in paragraph (d) of the definition of “relevant period” by substituting “one year” for “2 years” in both places where it occurs, and
 - (ii) in the definition of “unquoted company” by substituting “Irish Enterprise Exchange” for “Developing Companies Market” in each place where it occurs,
- (b) in section 489—
 - (i) by inserting the following after subsection (4B)(inserted by the Finance Act 2004):

“(4C) Notwithstanding any other provision of this section, where—

- (a) (i) in accordance with section 508 relief is due in respect of an amount subscribed as nominee for a qualifying individual by the managers of a designated fund,
- (ii) the amount so subscribed was subscribed to the designated fund in the period beginning on 1 January 2007 and ending on 31 January 2007, and
- (iii) the eligible shares in respect of which the amount is subscribed by the managers of the designated fund are issued on or before 31 December 2007,

or

- (b) eligible shares are issued by a qualifying company to a qualifying individual in the period beginning on 1 January 2007 and ending on 31 January 2007,

then the qualifying individual may elect, by notice in writing to the inspector, to have the relief due given as a deduction from his or her total income for the year of assessment 2006 instead of (as provided for in subsection (3)) as a deduction from his or her total income for the year of assessment 2007 and, where an election is so made, the relief to be given for the year of assessment 2006 shall be in accordance with section 490(2) as it applied for that year.”,

and

- (ii) in subsection (15) by substituting “31 December 2013” for “31 December 2006”,
- (c) in section 490—
 - (i) in subsection (2) by substituting “€100,000 in the case of a relevant investment, or €150,000 in any other case” for “€31,750”,
 - (ii) in subsection (3)(a) by substituting “, (4B) or (4C)” for “or (4B)”, and
 - (iii) in subsections (3)(b) and (4)(b) by substituting “2013” for “2006”,
- (d) in section 491—
 - (i) in subsections (2)(a) and (3)(a)—
 - (I) by substituting “1 January 2007” for “1 January 2002”, and
 - (II) by substituting the following for the definition of “A” in the formula:

“A is €2,000,000.”,

- (ii) by deleting subsections (2)(b) and (3)(b), and
- (iii) in subsection (3A)—
 - (I) by substituting “12 months” for “6 months”, and
 - (II) by substituting “€1,500,000” for “€750,000”,
- (e) in section 493 in subsection (8)(a)(i) by substituting “€500,000” for “€317,500”,
- (f) in section 496—
 - (i) in subsection (2)(a)—
 - (I) in subparagraph (ii)(I) by substituting the following for subclause (A):
 - “(A) the making of a grant towards the employment of persons under section 25 of the Industrial Development Act 1986 (as amended by section 29 of the Industrial Development (Science Foundation Ireland) Act 2003), was approved by Forbairt or the Industrial Development Agency (Ireland), or”,
 - (II) by substituting the following for subparagraph (v):
 - “(v) in respect of a relevant investment, the rendering of services referred to in subparagraph (ii) in respect of which an industrial development agency or a County Enterprise Board (being a board referred to in the Schedule to the Industrial Development Act 1995) has provided a certificate confirming eligibility for the grant of financial support of not less than €2,540 towards the undertaking of a feasibility study by a person approved of by the agency or the County Enterprise Board into the potential commercial viability of the services to be rendered,”,
 - (III) by deleting “and” at the end of subparagraph (xiii) and inserting “and” at the end of subparagraph (xv), and
 - (IV) by inserting the following after subparagraph (xv):

“(xvi) recycling activities in relation to waste material, within the meaning of subsection (9A).”,

and deleting “and” where it last occurs in paragraph (a),

and

(ii) after subsection (9) by inserting the following:

“(9A) (a) For the purposes of subsection (2)(a)(xvi) ‘recycling activities in relation to waste material’ means the subjection of the waste material to any process or treatment which results in value-added material that is reusable and, in respect of which activities, a grant or financial assistance has been made available by an industrial development agency.

(b) For the purposes of paragraph (a) ‘waste material’ means any of the following:

(i) packaging;

(ii) construction and demolition waste;

(iii) metals, wood, glass and plastics;

(iv) electrical and electronic equipment;

(v) batteries;

(vi) end of life mechanically propelled vehicles.”,

and

(g) by inserting the following after section 508:

“Reporting of relief. 508A.—(1) A person (being a qualifying company or the managers of a designated fund) shall, when required to do so by notice in writing by the Revenue Commissioners, furnish the Revenue Commissioners within such time as may be specified in the notice (not being less than 30 days) with such information, in relation to the relief provided for in this Part, as the Revenue Commissioners may reasonably require from that person for the purpose of the annual reports required in accordance with section 7.1 of the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises².

(2) Notwithstanding any obligation as to secrecy imposed on them by the Tax Acts or the Official Secrets Act 1963, the Revenue Commissioners may furnish the

²OJ No. C194 of 18 August 2006, p.20.

information obtained in accordance with subsection (1) to the person submitting the annual reports referred to in that subsection.

(3) The Revenue Commissioners may nominate any of their officers to discharge any function authorised by this section to be discharged by the Revenue Commissioners.

(4) Where any person fails to comply with a requirement to furnish the information in accordance with subsection (1), that person shall be liable to a penalty of €2,000 and, if that failure continues after the period of 30 days referred to in that subsection, a further penalty of €50 for each day on which the failure so continues.”.

- (2) (a) Subject to *paragraph (b)*, *subsection (1)* applies as follows:
- (i) as respects *paragraphs (a)(i)* and *(f)(i)(II)*, in relation to relevant investments made on or after 1 January 2007;
 - (ii) as respects *paragraph (a)(ii)*, as on and from 12 April 2005;
 - (iii) as respects *paragraphs (b)*, *(c)(ii)*, *(c)(iii)*, *(d)(ii)*, *(f)(i)(III)*, *(f)(ii)* and *(g)*, as on and from 1 January 2007;
 - (iv) as respects *paragraphs (c)(i)*, *(d)(i)*, *(d)(iii)*, *(e)* and *(f)(i)(IV)*, in relation to eligible shares issued on or after 1 January 2007; and
 - (v) as respects *paragraph (f)(i)(I)*, as respects subscriptions for eligible shares issued on or after 1 January 2007.
- (b) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Amendment of Part 40 (appeals) of Principal Act.

20.—(1) Part 40 of the Principal Act (as amended by the Finance Act 2005) is amended—

- (a) in section 934, by substituting the following for subsection (6):

“(6) Where an appeal is determined by the Appeal Commissioners, the inspector or other officer shall, unless either—

- (a) the person assessed requires that that person’s appeal shall be reheard under section 942, or
- (b) under the Tax Acts a case is required to be stated for the opinion of the High Court,

give effect to the Appeal Commissioners’ determination and thereupon, if the determination is that the assessment

is to stand or is to be amended, the assessment or the amended assessment, as the case may be, shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given.”,

- (b) in section 941, by substituting the following for subsection (9):

“(9) If the amount of the assessment is altered by the order or judgment of the Supreme Court or the High Court, then—

- (a) if too much tax has been paid, the amount overpaid shall be refunded with interest in accordance with section 865A, or
- (b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax (except in so far as any penalty is incurred on account of arrears) and shall be paid and recovered accordingly.”,

- (c) in section 942, by substituting the following for subsection (6):

“(6) Where an appeal is determined by the judge, the inspector or other officer shall, unless under the Tax Acts a case is required to be stated for the opinion of the High Court, give effect to the judge’s determination and thereupon, if the determination is that the assessment is to stand or is to be amended, the assessment or the amended assessment, as the case may be, shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given.”,

and

- (d) in section 945(2), by inserting “and” at the end of paragraph (h) and by deleting paragraph (i).

(2) *Subsection (1)* applies in relation to appeals determined by the Appeal Commissioners, or by a judge of the Circuit Court, on or after the date of the passing of this Act.

21.—Section 373 of the Principal Act is amended in subsection (2)—

Amendment of section 373 (interpretation (Part 11)) of Principal Act.

- (a) by substituting “1 January 2006;” for “1 January 2006.” in paragraph (o)(ii), and
- (b) by inserting the following after paragraph (o):

“(p) €24,000, where the expenditure was incurred—

- (i) in an accounting period ending on or after 1 January 2007, or
- (ii) in a basis period for a year of assessment, where that basis period ends on or after 1 January 2007.”.

Amendment of section 657A (taxation of certain farm payments) of Principal Act.

22.—Section 657A of the Principal Act is amended—

(a) in subsection (1) in the definition of “relevant individual” by substituting “the same year of assessment” for “the year of assessment 2005” in the first place it occurs and by substituting “that year of assessment” in the second place it occurs,

(b) by substituting the following for subsection (3):

“(3) Notwithstanding any other provision of the Income Tax Acts apart from subsection (4), where an individual elects in accordance with subsection (2), then the relevant payment or relevant payments shall—

(a) be disregarded as respects the ‘same year of assessment’ referred to in the definition of ‘relevant individual’ in subsection (1), and

(b) instead be treated for the purposes of the Income Tax Acts as arising in equal instalments in the year of assessment that is such same year of assessment and in the 2 immediately succeeding years of assessment.”,

and

(c) by substituting the following for subsection (5):

“(5) An election under subsection (2) by a person to whom this section applies, shall be made by notice in writing on or before 31 October in the year following the ‘same year of assessment’ referred to in the definition of ‘relevant individual’ in subsection (1), and shall be included in the annual statement required to be delivered on or before that date under the Income Tax Acts of the profits or gains from farming for the year of assessment that is such same year of assessment.”.

Restructuring aid for sugar beet growers.

23.—Chapter 1 of Part 23 of the Principal Act is amended by inserting the following after section 657A:

“657B.—(1) In this section—

‘specified individual’ means an individual who carries on in the year of assessment 2007 or in any subsequent year of assessment the trade of farming in respect of which the individual is within the charge to tax under Case I of Schedule D;

‘specified payment’ means a payment to a specified individual under the EU temporary scheme for the restructuring of the sugar industry in the Community, operated by the Department of Agriculture and Food under Article 3(6) first indent, of Council Regulation (EC) No. 320/2006³ of 20 February 2006, in respect of which the specified individual would, apart from this section, be chargeable to income tax on the profits or gains from farming for the year of assessment 2007 or for any subsequent year of assessment.

(2) A specified individual may elect to have the aggregate of all specified payments made to the individual which would, apart

³OJ No. L58, 28.2.2006, p.42

from this section, be chargeable to income tax for a year of assessment treated in accordance with subsections (3) to (6), and each such election shall be made in such form and contain such information as the Revenue Commissioners may require.

(3) Notwithstanding any other provision of the Income Tax Acts apart from subsection (4), where a specified individual elects in accordance with subsection (2), the specified payment or specified payments shall be disregarded as respects the year of assessment referred to in subsection (2) and shall instead be treated for the purposes of the Income Tax Acts as chargeable in equal instalments for the year of assessment so referred to in subsection (2) and for the 5 succeeding years of assessment.

(4) Where a trade of farming is permanently discontinued, tax shall be charged under Case IV of Schedule D for the year of assessment in which such discontinuation takes place in respect of the amount of any specified payment which would, but for such discontinuance, be treated by virtue of subsection (3) as chargeable for a year of assessment or years of assessment ending after such discontinuance.

(5) An election under subsection (2) by an individual to whom this section applies, shall be made by notice in writing on or before 31 October in the year of assessment following the year of assessment referred to in subsection (2).

(6) Subject to subsection (4), an election made under subsection (2) shall not be altered or varied during the period to which it relates.”.

24.—(1) Chapter 2 of Part 23 of the Principal Act is amended— Amendment of Chapter 2 (farming: relief for increase in stock values) of Part 23 of Principal Act.

(a) in section 666(4) by substituting “31 December 2008” for “31 December 2006” in paragraph (a) and “year 2008” for “year 2006” in paragraph (b),

(b) in section 667A by substituting “31 December 2008” for “31 December 2006” in subsection (6)(b), and

(c) by inserting the following new section after section 667A:

“New arrangements for qualifying farmers.

667B.—(1) In this section ‘qualifying farmer’ means an individual who—

(a) in the year 2007 or any subsequent year of assessment first qualifies for grant aid under the scheme of Installation Aid for Young Farmers operated by the Department of Agriculture and Food under Council Regulation (EEC) No. 797/85 of 12 March 1985⁴ or that Regulation as may be revised from time to time, or

(b) (i) first becomes chargeable to income tax under Case I of Schedule D in respect of profits or gains from the trade of farming for the

⁴OJ No. L93, 30.3.1985, p.6

year 2007 or any subsequent year of assessment,

- (ii) has not attained the age of 35 years at the commencement of the year of assessment referred to in subparagraph (i), and
- (iii) at any time in the year of assessment so referred to satisfies the conditions set out in subsection (2) or (3).

(2) The conditions required by this subsection are that the individual, referred to in the definition of ‘qualifying farmer’ in subsection (1), is the holder of a qualification set out in the Table to this section (in this section referred to as the ‘Table’).

(3) The conditions required by this subsection are that the individual, referred to in the definition of ‘qualifying farmer’ in subsection (1), is the holder of a letter of confirmation from Teagasc confirming satisfactory completion of a course of training, approved by Teagasc, for persons who in the opinion of Teagasc are restricted in their learning capacity due to physical, sensory, or intellectual disability or to mental health.

(4) For the purposes of subsection (2) where Teagasc certifies that—

- (a) any other qualification corresponds to a qualification set out in the Table, and
- (b) that other qualification is deemed by the National Qualifications Authority of Ireland to be at least at a level equivalent to that of the qualification set out in the Table,

then that other qualification will be treated as if it were the qualification set out in the Table.

(5) In the case of a qualifying farmer—

- (a) section 666(1) will apply as if ‘100 per cent’ were substituted for ‘25 per cent’, and
- (b) paragraph (a) will apply in computing a person’s trading profits for an accounting period in the case of an individual who becomes a qualifying farmer at

any time in the period beginning on or after 1 January 2007 and ending on or before 31 December 2008, for the year of assessment in which the individual becomes a qualifying farmer and for each of the 3 immediately succeeding years of assessment.

(6) An individual who, at any time before 31 March 2008, satisfies the conditions referred to in paragraph (b)(iii) of the definition of 'qualifying farmer' in section 667A (1) will be deemed to satisfy the conditions referred to in paragraph (b)(iii) of the definition of 'qualifying farmer' in subsection (1).

TABLE

1. Qualifications awarded by the Further Education and Training Awards Council:

- (a) Level 6 Advanced Certificate in Farming;
- (b) Level 6 Advanced Certificate in Agriculture;
- (c) Level 6 Advanced Certificate in Dairy Herd Management;
- (d) Level 6 Advanced Certificate in Drystock Management;
- (e) Level 6 Advanced Certificate in Agricultural Mechanisation;
- (f) Level 6 Advanced Certificate in Farm Management;
- (g) Level 6 Advanced Certificate in Machinery and Crop Management;
- (h) Level 6 Advanced Certificate in Horticulture;
- (i) Level 6 Advanced Certificate in Forestry;
- (j) Level 6 Advanced Certificate in Stud Management;
- (k) Level 6 Advanced Certificate in Horsemanship.

2. Qualifications awarded by the Higher Education and Training Awards Council:

- (a) Higher Certificate in Agriculture;
- (b) Bachelor of Science in Agriculture;
- (c) Higher Certificate in Agricultural Science;
- (d) Bachelor of Science in Agricultural Science;

- (e) Bachelor of Science (Honours) in Land Management, Agriculture;
- (f) Bachelor of Science (Honours) in Land Management, Horticulture;
- (g) Bachelor of Science (Honours) in Land Management, Forestry;
- (h) Higher Certificate in Engineering in Agricultural Mechanisation;
- (i) Bachelor of Science in Rural Enterprise and Agri-Business;
- (j) Bachelor of Science in Agriculture and Environmental Management;
- (k) Bachelor of Science in Horticulture;
- (l) Bachelor of Arts (Honours) in Horticultural Management;
- (m) Bachelor of Science in Forestry;
- (n) Higher Certificate in Business in Equine Studies;
- (o) Bachelor of Science in Equine Studies.

3. Qualifications awarded by other third level institutions:

- (a) Bachelor of Agricultural Science — Animal Crop Production awarded by University College Dublin;
- (b) Bachelor of Agricultural Science — Animal Science awarded by University College Dublin;
- (c) Bachelor of Agricultural Science — Food and Agribusiness Management awarded by University College Dublin;
- (d) Bachelor of Agricultural Science — Forestry awarded by University College Dublin;
- (e) Bachelor of Agricultural Science — Horticulture, Landscape and Sportsturf Management awarded by University College Dublin;
- (f) Bachelor of Veterinary Medicine awarded by University College Dublin;
- (g) Bachelor of Science in Equine Science awarded by the University of Limerick;
- (h) Diploma in Equine Science awarded by the University of Limerick.”.

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Amendment of section 669A (interpretation) of Principal Act.

25.—Section 669A of the Principal Act is amended in the definition of “qualifying expenditure” by substituting the following for paragraph (b)(ii):

“(ii) the amount of capital expenditure which would have been incurred on the purchase of that milk quota if the price paid were set otherwise than by the Minister for Agriculture and Food for the purposes of a Milk Quota Restructuring Scheme in the area in which the land, with which that milk quota is associated, is situated;”.

26.—(1) The Principal Act is amended—

Taxation of stallion profits and gains.

(a) in section 381 by inserting the following after subsection (2):

“(2A) Subsection (2) shall cease to have effect as respects losses arising on or after 1 August 2008 and, as respects the chargeable period in which 1 August 2008 occurs, the amount of such losses will be determined by the formula—

$$A \times \frac{B}{C}$$

where—

A is the total amount of losses arising in the chargeable period,

B is the length, in days, of the period beginning on 1 August 2008 and ending on the last day of the chargeable period in which 1 August 2008 occurs, and

C is the length, in days, of the chargeable period.”,

and

(b) by inserting the following Chapter into Part 23 after Chapter 3:

“CHAPTER 4

Taxation of stallion profits and gains

Interpretation (Chapter 4). 669G.—In this Chapter—

‘excess relief’ has the same meaning as in section 485C;

‘initial value’ in relation to a stallion means its market value on—

(a) 1 August 2008, or

(b) the day it is either acquired for, or appropriated to, stud activities, as the case may be,

whichever is later, and any reference to a stallion includes a reference to an interest in a stallion;

‘market value’, at any time in relation to a stallion, means the price which the stallion might reasonably be expected to fetch on a

sale in the open market and in a case where a person (the ‘purchaser’) acquires the stallion from another person (the ‘vendor’)—

- (a) at arm’s length, and
- (b) the purchaser and the vendor are not connected persons (within the meaning of section 10),

then the market value is the price paid;

‘relevant amount’, in relation to a year of assessment and an individual, means an amount determined by the formula—

$$A - B$$

where—

A is the amount of income tax payable by the individual for the year of assessment, and

B is the amount of income tax which would be payable by the individual for the year of assessment if—

- (a) the entry at Reference Number 6 of Schedule 25B had not been enacted, and
- (b) for the purposes of the entry at Reference Number 1 of Schedule 25B the definition of ‘exempt profits’ in section 140(1) did not include profits or gains which by virtue of section 231 were not charged to tax;

‘relevant excess relief’, in relation to a year of assessment and an individual, means an amount determined by the formula—

$$C - D$$

where—

C is the amount of excess relief which is carried forward to the next year of assessment and which the individual is entitled to deduct from his or her total income for that year, and

D is the amount of excess relief which would be carried forward to the next year of assessment and which the individual would be entitled to deduct from his or her total income for that year if—

- (a) the entry at Reference Number 6 of Schedule 25B had not been enacted, and

- (b) for the purposes of the entry at Reference Number 1 of Schedule 25B the definition of ‘exempt profits’ in section 140(1) did not include profits or gains which by virtue of section 231 were not charged to tax;

‘residual value’, in relation to a stallion, at any time, means—

- (a) an amount equal to the initial value of the stallion, or
- (b) if less, the amount by which the initial value of the stallion exceeds—
- (i) the amount which has been allowed as a deduction under section 669I for a chargeable period ending before that time, or
- (ii) where there is more than one such amount, the aggregate of such amounts.

Charging provisions.

669H.—(1) The profits or gains arising in any chargeable period to the owner or part-owner of a stallion from the sale of services of mares by the stallion or rights to such services shall be chargeable to income tax or corporation tax, as the case may be, in accordance with subsection (2).

- (2) (a) In a case in which the owner or part-owner of a stallion carries on in the chargeable period referred to in subsection (1) the trade of farming in respect of which the owner or part-owner is within the charge to tax under Case I of Schedule D, the profits or gains referred to in subsection (1) and any amount chargeable under subsection (3)(c) of section 669I shall be chargeable under that Case of that Schedule as part of that trade.

- (b) In a case, other than one referred to in paragraph (a), the profits or gains referred to in subsection (1) and any amount chargeable under subsection (3)(c) of section 669I shall be chargeable under Case IV of Schedule D.

Provisions as to deductions.

669I.—(1) Where any person acquires ownership or part-ownership of a stallion, the profits or gains in relation to which are

chargeable in accordance with section 669H(2), then that person, in computing the amount of income to be charged to tax under the Tax Acts for any chargeable period, shall not be entitled, other than in accordance with subsection (2), to any deduction in respect of expenditure incurred on such acquisition.

(2) (a) Where the profits or gains referred to in subsection (1) are chargeable in accordance with section 669H(2)(a), for each of 4 consecutive chargeable periods, the first of which begins with the chargeable period in which—

(i) 1 August 2008 occurs, in a case where the stallion is owned or part-owned on that day, or

(ii) in any other case, the stallion is either acquired for, or appropriated to, stud activities, as the case may be,

the owner or part-owner of the stallion shall, in computing for the purposes of tax the trading income of the trade of farming referred to in that section, be entitled to a deduction under this section equal to 25 per cent of the initial value of the stallion, as if the deduction were a trading expense incurred in the chargeable period.

(b) Subject to section 669K(3), where the profits or gains referred to in subsection (1) are chargeable in accordance with section 669H(2)(b), in determining the amount of income to be charged to tax under Case IV of Schedule D, such income shall be computed in accordance with the provisions applicable to Case I of Schedule D, taking into account this Chapter.

(3) Where, in any chargeable period a stallion to which this Chapter applies is disposed of or dies, then—

(a) no deduction which would otherwise be allowed under subsection (2)(a) or (2)(b), as the case may be, in respect of the initial

value of that stallion shall be allowed for that chargeable period or for any subsequent chargeable period,

- (b) a deduction of an amount equal to the residual value of the stallion at the time of its disposal or death shall be allowed for that chargeable period as if it were a deduction under subsection (2)(a), and
- (c) the owner or part-owner of the stallion shall be chargeable to income tax or corporation tax, as the case may be, on—
 - (i) the amount received in money or money's worth, in respect of its disposal or death, or
 - (ii) in the case of a disposal, if greater, the price which the stallion might reasonably have been expected to fetch at the time of its disposal on a sale, at arm's length between persons who are not connected (within the meaning of section 10), in the open market.

Credit for tax paid.

669J.—(1) Subject to the provisions of this section, any individual, to whom Chapter 2A of Part 15 applies for any year of assessment, who has made a payment which includes a relevant amount in respect of that year of assessment shall, without prejudice to the payment so made, be treated as having made a payment on account of income tax of an amount equal to the relevant amount.

(2) So much of a payment of tax (referred to in this section as the 'deemed payment on account of tax') for a year of assessment by an individual as is treated in accordance with subsection (1) shall, in so far as possible, be set against any liability to income tax of the individual, for the year of assessment following the first-mentioned year of assessment.

(3) To the extent that the deemed payment on account of tax has not been set off in accordance with subsection (2), the balance remaining shall be set off against a liability to income tax for any subsequent year of assessment of the individual who is treated as having made the payment, in the

order of being set off against a liability for an earlier period in priority to a liability for a later period.

(4) Only the excess of an overpayment of income tax for any year of assessment over the deemed payment on account of tax to be made for that year of assessment by virtue of this section may be repaid and interest shall not be payable in respect of any part of such overpayment other than the excess.

(5) Where in any year of assessment section 485E applies to an individual, then for the purposes of section 485F the excess relief for the year shall be reduced by an amount equal to the amount of the relevant excess relief.

Miscellaneous
(Chapter 4).

669K.—(1) For the purposes of determining the market value of a stallion to which this Chapter applies, the Revenue Commissioners may consult with such person or body of persons as, in their opinion, may be of assistance to them.

(2) Notwithstanding any other provisions of the Tax Acts, trading stock comprising stallions shall be disregarded for all purposes of section 666.

(3) In a case in which in any chargeable period the computation of the amount of income of a person to be charged to tax under Case IV of Schedule D under this Chapter results in a loss, then, notwithstanding section 383, the amount of the loss may not be deducted from or set off against other income charged to tax under Case IV of Schedule D arising in that chargeable period, and any loss, when carried forward to a subsequent chargeable period, may only be deducted from or set off against income to which section 669H(2)(b) applies arising in that subsequent chargeable period.”.

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Amendment of
Schedule 26A
(donations to
approved bodies,
etc.) to Principal
Act.

27.—(1) Schedule 26A to the Principal Act is amended—

(a) in Part 1—

(i) by deleting “in the State” in each place it occurs in paragraphs 3 to 7, and

(ii) by deleting paragraphs 8 to 16, and paragraph 18,

and

- (b) in Part 2 by substituting the following for the definition of “approved body” in paragraph 1:

“ ‘approved body’ means any body or institution which may be approved of by the Minister for Finance and which—

- (a) provides any course one of the conditions of entry to which is related to the results of the Leaving Certificate Examination, a matriculation examination of a recognised university in the State or an equivalent examination held outside the State, or
- (b) (i) is established on a permanent basis solely for the advancement of one or more approved subjects,
- (ii) contributes to the advancement of that subject or those subjects on a national or regional basis, and
- (iii) is prohibited by its constitution from distributing to its members any of its assets or profits;”.

- (2) *Subsection (1)* applies as on and from 1 February 2007.

28.—(1) Part 9 of the Principal Act is amended—

- (a) in section 268—

- (i) in subsection (3A)—

(I) by substituting “Subject to subsections (3B) to (3E), in this section” for “In this section”, and

(II) by substituting the following for subparagraph (i) of paragraph (d):

“(i) is leased to a person and, as the case may be, the spouse of that person—

(I) who is or, as the case may be, are not connected (within the meaning of section 10) with the lessor,

(II) who has or have been selected as the occupant or occupants of the house by the registered nursing home, and

(III) either the person or the spouse of that person has been certified by a person, who is registered in the General Register of Medical Practitioners, as requiring such accommodation by

Capital allowances for qualifying residential units associated with registered nursing homes.

reason of old age or
infirmity,

or”,

(ii) by substituting the following for subsection (3B):

“(3B) (a) For the purposes of this section ‘house’, in relation to a qualifying residential unit, has the same meaning as in section 372AK.

(b) For the purposes only of the making of allowances and charges under this Part but subject to subsection (3C) and sections 270 and 316 (as amended by the *Finance Act 2007*), as respects capital expenditure incurred in the period commencing on 25 March 2002 and ending on 30 April 2010, a house in use as a qualifying residential unit shall be deemed to be a building in use for the purposes of a trade referred to in subsection (1)(g).”

and

(iii) by inserting the following after subsection (3C):

“(3D) Where the relevant interest in relation to capital expenditure incurred on the construction or refurbishment of all qualifying residential units in a development is held by a company (within the meaning of section 4(1)) then subsection (3A) shall apply as if subparagraphs (iv) and (v) of paragraph (c) of that subsection were deleted.

(3E) A house shall not be a qualifying residential unit for the purposes of this section unless—

(a) the following information has been provided to the Health Service Executive, by the person who is entitled to the relevant interest in relation to the capital expenditure incurred on the construction or refurbishment of the house, for onward transmission to the Minister for Health and Children and the Minister for Finance:

- (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the house;
- (ii) the number and nature of the investors that are investing in the house;
- (iii) the amount to be invested by each investor; and
- (iv) the nature of the structures which are being put in place to facilitate the investment in the house,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying residential units,

(b) the Health Service Executive, in consultation with the Minister for Health and Children, gives a certificate in writing after the house is first leased or, where capital expenditure is incurred on the refurbishment of a house, first leased subsequent to the incurring of that expenditure stating that it is satisfied that—

(i) the house and the development in which it is comprised complies with all the conditions mentioned in paragraphs (a), (b), (c) and (d) of subsection (3A), and

(ii) the information required in accordance with paragraph (a) of this subsection has been provided,

and

(c) an annual report in writing is provided, by the person who is entitled to the relevant interest in relation to the capital expenditure incurred on the construction or refurbishment of the house, to the Health Service Executive, for onward transmission to the Minister for Health and Children and the Minister for Finance, by the end of each year in the 20 year period referred to in section 272(4)(fa) (inserted by the *Finance Act 2007*), which—

(i) confirms whether the house and the development in which it is comprised continue to comply with all the conditions mentioned in paragraphs (a), (b), (c) and (d) of subsection (3A), and

(ii) provides details of the level of occupation of the house for the previous year including the age of and, as the case may be, the nature of the infirmity of the occupants.”,

(b) in section 270 by inserting the following subsection after subsection (7):

“(8) Where capital expenditure is incurred on or after 1 May 2007 under a contract or agreement which is entered into on or after that date for the construction,

refurbishment or development of a qualifying residential unit as is referred to in subsection (4)(i), then—

(a) subsection (4) shall apply as if the reference to ‘31 July 2008’ were a reference to ‘30 April 2010’,

(b) subsection (5) shall apply as if—

(i) the reference to ‘subject to subsections (6) and (7)’ were a reference to ‘subject to subsections (6) to (8)’, and

(ii) the following paragraphs were substituted for paragraphs (a) and (b):

‘(a) in the case of expenditure incurred by a company (within the meaning of section 4(1)) in the period from 1 May 2007 to 30 April 2010, to 75 per cent, and

(b) in the case of expenditure incurred by a person other than a company (within the meaning of section 4(1)) in the period from 1 May 2007 to 30 April 2010, to 50 per cent.’,

(c) in section 272(4)—

(i) in paragraph (f), by inserting “subject to paragraph (fa),” before “in relation to”, and

(ii) by inserting the following paragraph after paragraph (f):

“(fa) where subsection (8) of section 270 applies in relation to a qualifying residential unit as is referred to in subsection (4)(i) of that section—

(i) 20 years beginning with the time when the unit was first used, or

(ii) where capital expenditure on the refurbishment of the unit is incurred, 20 years beginning with the time when the unit was first used subsequent to the incurring of that expenditure.”,

(d) in section 274(1)(b)—

(i) in subparagraph (iia), by inserting “subject to subparagraph (iib),” before “in relation to”, and

(ii) by inserting the following subparagraph after subparagraph (iia):

“(iib) where subsection (8) of section 270 applies in relation to a qualifying residential unit as is referred to in subsection (4)(i) of that section—

- (I) 20 years after the unit was first used, or
- (II) where capital expenditure on the refurbishment of the unit is incurred, 20 years after the unit was first used subsequent to the incurring of that expenditure,”

and

(e) in section 316(2B)—

- (i) by deleting “or” at the end of paragraph (b) and by substituting “31 July 2008, or” for “31 July 2008,” in paragraph (c), and
- (ii) by inserting the following paragraph after paragraph (c):

“(d) where subsection (8) of section 270 applies in relation to a qualifying residential unit as is referred to in subsection (4)(i) of that section, the period from 1 May 2007 to 30 April 2010,”.

(2) *Subsection (1)* of this section applies as respects capital expenditure incurred on or after 1 May 2007 under a contract or agreement for the construction, refurbishment or development of a qualifying residential unit (within the meaning of section 268(3A) of the Principal Act) which is entered into on or after that date.

29.—(1) The Principal Act is amended—

(a) in Part 10, by inserting the following after Chapter 11:

Mid-Shannon
corridor tourism
infrastructure
investment scheme.

“CHAPTER 12

Mid-Shannon Corridor Tourism Infrastructure Investment Scheme

Interpretation,
applications
for approval
and
certification.

372AW.—(1) In this Chapter—

‘accommodation building’, in relation to a project, means a building or structure or part of a building or structure which consists of accommodation facilities or which is to be used or is suitable for use for the provision of such facilities;

‘market value’, in relation to a building or structure, means the price which the unencumbered fee simple of the building or structure would fetch if sold in the open market in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the building or structure, less the part of that price which would be attributable to the acquisition of, or of rights in or over, the land on which the building or structure is constructed;

‘mid-Shannon corridor’ means the corridor of land comprising all qualifying mid-Shannon areas;

‘mid-Shannon Tourism Infrastructure Board’ means a board consisting of not more than 5 persons selected for the purposes of this Chapter by the Minister in consultation with the Minister for Finance;

‘Minister’ means the Minister for Arts, Sport and Tourism;

‘project’ means the construction or refurbishment of buildings and structures comprising—

(a) a holiday camp of the type referred to in section 372AX(1)(b), or

(b) one or more qualifying tourism infrastructure facilities,

the site or sites of which is or are wholly within a qualifying mid-Shannon area;

‘property developer’ means a person carrying on a trade which consists wholly or mainly of the construction or refurbishment of buildings or structures with a view to their sale;

‘qualifying mid-Shannon area’ means any area described in Schedule 8B;

‘qualifying period’ means a period of 3 years commencing on the date on which this Chapter comes into effect;

‘qualifying tourism infrastructure facilities’ means such class or classes of facilities, comprising of buildings and structures only, as may be approved for the purposes of this Chapter by the Minister, in consultation with the Minister for Finance, and published in the relevant guidelines;

‘refurbishment’, in relation to a building or structure, means any work of construction, reconstruction, repair or renewal, including the provision or improvement of water, sewerage or heating facilities, carried out in the course of—

(a) the repair or restoration, or

(b) maintenance in the nature of repair or restoration,

of the building or structure;

‘relevant guidelines’ mean guidelines issued in accordance with subsection (3) of this section or any guidelines issued in accordance with that subsection which amend or replace those guidelines.

- (2) (a) Notwithstanding sections 372AX and 372AY, but subject to the subsequent provisions of this section and to section 372AZ, no relief from income tax or corporation tax, as the case may be, may be granted by virtue of this Chapter in respect of capital expenditure incurred in the qualifying period on the construction or refurbishment of a building or structure unless the mid-Shannon Tourism Infrastructure Board has—
- (i) prior to such expenditure being incurred, but subject to paragraph (b), granted approval in principle in relation to the construction or refurbishment of the building or structure, and
 - (ii) after the expenditure is incurred, certified in writing that the construction or refurbishment which was carried out is in accordance with the criteria specified in the relevant guidelines, having regard to any relevant conditions and requirements imposed by the Board in the approval granted under subparagraph (i).
- (b) Approval in principle shall not be granted in accordance with paragraph (a)(i) unless an application for such approval, in which the information and details as may be required in accordance with subsection (3)(h) are included, is received by the mid-Shannon Tourism Infrastructure Board within a period of one year commencing on the date on which this Chapter comes into effect.

(3) Subject to subsection (4), for the purposes of approval and certification in accordance with subsection (2) and, as the case may be, certification in accordance with section 372AX(1)(d) or 372AY(1)(g) the Minister shall, in consultation with the

Minister for Finance, issue guidelines to which the mid-Shannon Tourism Infrastructure Board shall have regard in deciding whether to grant approval in principle or to issue certification in relation to any building or structure and which guidelines may include criteria in relation to all or any one or more of the following:

- (a) the nature and extent of the contribution which the project, in which the building or structure is comprised, makes to tourism development in the mid-Shannon corridor or the qualifying mid-Shannon area;
- (b) coherence with national tourism strategy;
- (c) environmental sensitivity, having particular regard to any area which is—
 - (i) a European site within the meaning of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997), or
 - (ii) a natural heritage area, a nature reserve or a refuge for fauna for the purposes of the Wildlife Acts 1976 and 2000;
- (d) the amenities and facilities required to be provided in each type of project;
- (e) the nature of and maximum extent to which accommodation buildings (if any) are allowable in each type of project;
- (f) specific standards of design and construction in relation to buildings and structures which may qualify for relief under this Chapter;
- (g) relevant planning matters, including the need for consistency with the requirements of a development plan or a local area plan within the meaning of those terms in the Planning and Development Act 2000;

- (h) the details and information required to be provided in an application for approval or certification in accordance with section 372AW(2) and, as the case may be, an application for certification in accordance with section 372AX(1)(d) or 372AY(1)(g); and
- (i) matters relating to the provision of information in accordance with sections 372AX(1)(c) and 372AY(1)(f),

together with such other matters as the Minister, in consultation with the Minister for Finance, may consider are required to be included.

- (4) (a) Subject to paragraphs (b) and (c), approval and certification in accordance with subsection (2) shall not be granted or issued by the mid-Shannon Tourism Infrastructure Board in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of one or more than one accommodation building comprised in a project to the extent that such expenditure exceeds (or, where an application for approval is involved, is projected to exceed) an amount (referred to in this subsection as the 'limit amount') which is equal to the lesser of—
 - (i) 50 per cent, or such lower percentage as may be specified (in accordance with subsection (3)(e)) in the relevant guidelines for the type of project involved, of the total amount of the capital expenditure incurred in the qualifying period on the construction or refurbishment of all the buildings or structures comprised in the project, and
 - (ii) the amount of the capital expenditure incurred in the qualifying period on the construction or refurbishment of buildings and structures comprised in the project which are other

than accommodation
buildings.

(b) In any case where—

- (i) there is more than one accommodation building comprised in a project, and
- (ii) the aggregate of the amounts of capital expenditure incurred in the qualifying period on the construction or refurbishment of each accommodation building exceeds the limit amount,

then that aggregate shall, for the purposes of an application for approval or for certification in accordance with subsection (2), be reduced to an amount equivalent to the limit amount and that equivalent amount shall be apportioned on a just and reasonable basis between all the accommodation buildings comprised in the project.

(c) Subject to the criteria in the relevant guidelines being satisfied, the mid-Shannon Tourism Infrastructure Board may grant approval or issue certification in accordance with subsection (2) in relation to an accommodation building—

- (i) where there is one accommodation building comprised in a project, only in relation to the amount of the capital expenditure incurred on the construction or refurbishment of the building in the qualifying period as does not exceed the limit amount, and
- (ii) where paragraph (b) applies, provided that it is satisfied with the basis on which the apportionment has been made, only in relation to that part of the equivalent amount (as referred to in paragraph (b)) which is attributable to the building

following the apportionment made in accordance with that paragraph.

Accelerated capital allowances in relation to the construction or refurbishment of certain registered holiday camps.

372AX.—(1) In this section ‘building or structure to which this section applies’ means a building or structure—

- (a) the site of which is wholly within a qualifying mid-Shannon area,
- (b) which is in use as a holiday camp—
 - (i) registered in the register of holiday camps kept under the Tourist Traffic Acts 1939 to 2003, and
 - (ii) which meets the requirements of the relevant guidelines in relation to the types of amenities and facilities that need to be provided in a holiday camp for the purposes of this Chapter,
- (c) in relation to which the following data has been provided to the mid-Shannon Tourism Infrastructure Board for onward transmission to the Minister and the Minister for Finance:
 - (i) (I) the amount of the capital expenditure actually incurred in the qualifying period on the construction or refurbishment of the building or structure, and
 - (II) where subsection (4) of section 372AW applies in relation to an accommodation building, the amount of such expenditure which is eligible for certification in accordance with that section;
 - (ii) the number and nature of the investors that are investing in the building or structure;
 - (iii) the amount to be invested by each investor; and

- (iv) the nature of the structures which are being put in place to facilitate the investment in the building or structure;

together with such other information as may be specified in the relevant guidelines as being of assistance to the Minister for Finance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief for buildings and structures under this Chapter, and

- (d) in respect of which the mid-Shannon Tourism Infrastructure Board gives a certificate in writing after the building or structure is first used or, where capital expenditure is incurred on the refurbishment of a building or structure, first used subsequent to the incurring of that expenditure—
 - (i) stating that it is satisfied that the conditions in paragraphs (a), (b) and (c) have been met,
 - (ii) confirming the date of first use or, as the case may be, first use after refurbishment, and
 - (iii) which includes certification in accordance with section 372AW(2)(a)(ii) or a copy of such certification (if previously issued).

(2) Subject to subsections (3) and (4) and to section 372AZ, Chapter 1 of Part 9 applies in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a building or structure to which this section applies as if—

- (a) in section 272—
 - (i) in subsection (3), the following were substituted for paragraph (c):
 - ‘(c) in relation to a building or structure to which section 372AX applies, 15 per

cent of the capital expenditure referred to in subsection (2) of that section,'

and

(ii) in subsection (4), the following were substituted for paragraph (c):

'(c) in relation to a building or structure to which section 372AX applies, 15 years beginning with the time when the building or structure was first used or, where capital expenditure on the refurbishment of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,'

and

(b) in section 274(1)(b), the following were substituted for subparagraph (iii):

'(iii) in relation to a building or structure to which section 372AX applies, 15 years after the building or structure was first used or, where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure,'

(3) In the case where capital expenditure is incurred in the qualifying period on the refurbishment of a building or structure to which this section applies, subsection (2) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 20 per cent of the market value of the building or structure immediately before that expenditure was incurred.

(4) In determining for the purposes of this Chapter whether and to what extent capital expenditure incurred on the construction or refurbishment of a building or structure to which this section applies is incurred or not incurred in the qualifying period, such an amount of that capital expenditure as is properly attributable to work on the construction or, as the case may be, refurbishment of the building or structure actually carried out during the qualifying period shall (notwithstanding any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period.

Capital allowances in relation to the construction or refurbishment of certain tourism infrastructure facilities.

372AY.—(1) In this section ‘qualifying premises’ means a building or structure—

- (a) the site of which is wholly within a qualifying mid-Shannon area,
- (b) which apart from this section is not an industrial building or structure within the meaning of section 268 or deemed to be such a building or structure,
- (c) which is in use for the purposes of the operation of one or more qualifying tourism infrastructure facilities,
- (d) (i) subject to subparagraph (ii), which does not include a building or structure or part of a building or structure which is a licensed premises (as defined in section 2 of the Intoxicating Liquor Act 1988), but
 - (ii) which may include a building or structure or part of a building or structure which is a restaurant (as defined in section 6 of the Intoxicating Liquor Act 1988) in relation to which—
 - (I) a wine retailer’s on-licence, within the meaning of the Finance (1909-10) Act 1910, is currently in force, or
 - (II) a special restaurant licence, within the meaning of the Intoxicating Liquor Act 1988, has been granted

under section 9 of that Act,

- (e) which does not include a building or structure or part of a building or structure in use as a facility in which gambling, gaming or wagering of any sort is carried on for valuable consideration or which supports the carrying on of such activities,
- (f) in relation to which the following data has been provided to the mid-Shannon Tourism Infrastructure Board for onward transmission to the Minister and the Minister for Finance:
 - (i) (I) the amount of the capital expenditure actually incurred in the qualifying period on the construction or refurbishment of the building or structure; and
 - (II) where subsection (4) of section 372AW applies in relation to an accommodation building, the amount of such expenditure which is eligible for certification in accordance with that section;
 - (ii) the number and nature of the investors that are investing in the building or structure;
 - (iii) the amount to be invested by each investor; and
 - (iv) the nature of the structures which are being put in place to facilitate the investment in the building or structure;

together with such other information as may be specified in the relevant guidelines as being of assistance to the Minister for Finance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief for buildings and structures under this Chapter, and

- (g) in respect of which the mid-Shannon Tourism Infrastructure Board gives a certificate in writing after the building or structure is first used or, where capital expenditure is incurred on the refurbishment of the building or structure, first used subsequent to the incurring of that expenditure—
 - (i) stating that it is satisfied that the conditions in paragraphs (a), (b), (c), (d), (e) and (f) have been met,
 - (ii) confirming the date of first use or, as the case may be, first use after refurbishment, and
 - (iii) which includes certification in accordance with section 372AW(2)(a)(ii) or a copy of such certification (if previously issued).
- (2) (a) Subject to paragraph (b), subsections (3) to (5) and section 372AZ, the provisions of the Tax Acts relating to the making of allowances and charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply—
 - (i) as if the qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by reason of its use for a purpose specified in section 268(1)(a), and
 - (ii) where any activity carried on in the qualifying premises is not a trade, as if (for the purposes only of the making of allowances and charges by virtue of subparagraph (i)), it were a trade.

(b) An allowance shall be given by virtue of this subsection in respect of any capital expenditure incurred on the construction or refurbishment of a qualifying premises only in so far as that expenditure is incurred in the qualifying period.

(3) In the case where capital expenditure is incurred in the qualifying period on the refurbishment of a qualifying premises, subsection (2) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 20 per cent of the market value of the building or structure immediately before that expenditure was incurred.

(4) For the purposes of the application, by subsection (2), of Chapter 1 of Part 9 in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises—

(a) section 272 shall apply as if—

(i) in subsection (3), the following were substituted for paragraph (a):

‘(a) in relation to a building or structure to which section 372AY applies, 15 per cent of the capital expenditure referred to in subsection (2)(b) of that section,’

and

(ii) in subsection (4), the following were substituted for paragraph (a):

‘(a) in relation to a building or structure to which section 372AY applies, 15 years beginning with the time when the building or structure was first used or, where capital expenditure on the refurbishment of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,’

and

(b) section 274(1)(b) shall apply as if the following were substituted for subparagraph (i):

‘(i) in relation to a building or structure to which section 372AY applies, 15 years after the building or structure was first used or, where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.’

(5) In determining for the purposes of this Chapter whether and to what extent capital expenditure incurred on the construction or refurbishment of a qualifying premises is incurred or not incurred in the qualifying period, such an amount of that capital expenditure as is properly attributable to work on the construction or, as the case may be, refurbishment of the premises actually carried out during the qualifying period shall (notwithstanding any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period.

Restrictions on relief, non-application of relief in certain cases and provision against double relief.

372AZ.—(1) Notwithstanding any other provision of this Chapter, sections 372AX and 372AY shall not apply in respect of expenditure incurred on the construction or refurbishment of a building or structure—

- (a) (i) where a property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and
- (ii) either the person referred to in subparagraph (i) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the building or structure concerned,

- (b) where any part of such expenditure has been or is to be met, directly or indirectly, by grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State,
- (c) unless the potential capital allowances in relation to the building or structure concerned and the project in which it is comprised comply with the requirements of Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the European Communities Treaty to national regional investment aid⁵.

(2) Where relief is given by virtue of section 372AX or 372AY in relation to capital expenditure incurred on the construction or refurbishment of a building or structure, relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.

(3) Where—

- (a) capital expenditure is incurred in the qualifying period on the construction or refurbishment of an accommodation building, and
- (b) subsection (4) of section 372AW applies so as to reduce the amount of such expenditure which is eligible for certification in accordance with that section by the mid-Shannon Tourism Infrastructure Board,

then the amount of the capital expenditure actually incurred in the qualifying period on the construction or refurbishment of the accommodation building which is to be treated as incurred—

- (i) for the purposes of the making of allowances and charges under Chapter 1 of Part 9, by virtue of section 372AX or 372AY, (including the making of balancing allowances and charges under section 274 and the calculation of the residue of expenditure under section 277), but

⁵OJ No. L 302 of 1.11.2006 p.29

- (ii) prior to the operation of subsection (4),

shall be reduced to the amount of the capital expenditure which was eligible for certification by the mid-Shannon Tourism Infrastructure Board in relation to that building.

(4) Where relief under Chapter 1 of Part 9 is, by virtue of section 372AX or 372AY, to apply in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a building or structure the site of which is wholly within a qualifying mid-Shannon area described in either Part 1 or Part 5 of Schedule 8B (as inserted by the *Finance Act 2007*), then the amount of that capital expenditure which is to be treated as incurred for the purposes of the making of allowances and charges under that Chapter (including the making of balancing allowances and charges under section 274 and the calculation of the residue of expenditure under section 277) shall be reduced to 80 per cent of the amount which, apart from this subsection, would otherwise be so treated.

(5) (a) For the purposes of the making of allowances and charges under Chapter 1 of Part 9 as is referred to in subsections (3) and (4), references in the Tax Acts, other than those in section 279 as applied by paragraph (b), to expenditure incurred on the construction or, as the case may be, refurbishment of a building or structure shall be construed as a reference to such expenditure as reduced in accordance with either or both of those subsections.

(b) Section 279 shall apply in relation to a building or structure to which either or both subsections (3) and (4) apply as if—

- (i) in subsection (1) of that section, the following were substituted for the definition of ‘the net price paid’:

‘ “the net price paid” means the amount represented by A in the equation—

$$A = B \times \frac{C}{D + E}$$

where—

B is the amount paid by a person on the purchase of the relevant interest in the building or structure,

C is the amount of the expenditure actually incurred on the construction of the building or structure as reduced in accordance with either or both subsections (3) and (4) of section 372AZ,

D is the amount of the expenditure actually incurred on the construction of the building or structure, and

E is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of section 270(2).’,

(ii) in subsection (2) of that section, the following were substituted for paragraph (b):

‘(b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure equal to that expenditure as reduced in accordance with either or both subsections (3) and (4) of section 372AZ or to the net price paid (within the meaning of that term as applied by section 372AZ(5)) by such person for that interest, whichever is the less;’,

and

(iii) in subsection (3) of that section, the reference to ‘that expenditure or to’ were a reference to ‘that expenditure as reduced in accordance with either or both subsections (3) and

(4) of section 372AZ or to’.”,

(b) by inserting the following after Schedule 8A:

“Section
372AW.

SCHEDULE 8B

DESCRIPTION OF QUALIFYING MID-SHANNON AREAS

PART 1

Description of qualifying mid-Shannon areas of Clare

The District Electoral Divisions of Ayle, Ballynahinch, Boherglass, Caherhurley, Cappaghbaun, Carrowbaun, Cloonusker, Coolreagh, Corlea, Derrynagittagh, Drummaan, Fahymore, Feakle, Inishcaltra North, Inishcaltra South, Killaloe, Killokennedy, Killuran, Kilseily, Lackareagh, Loughlea, Mountshannon, O’Briensbridge, Ogonnelloe and Scarriff.

PART 2

Description of qualifying mid-Shannon areas of Galway

The District Electoral Divisions of Abbeygormacan, Abbeyville, Balinasloe Rural, Balinasloe Urban, Ballyglass, Ballynagar, Bracklagh, Clonfert, Clontuskert, Coos, Derrew, Drumkeary, Drummin, Eyrecourt, Kellysgrove, Killimor (Portumna rural area), Kilmacshane, Kilmalinoge, Kilquain, Kiltormer, Kylemore, Laurencetown, Leitrim, Lismanny, Loughatorick, Marblehill, Meelick, Moat, Pallas, Portumna, Tiranascragh, Tynagh and Woodford.

PART 3

Description of qualifying mid-Shannon areas of Offaly

The District Electoral Divisions of Ballycumber, Banagher, Birr Rural, Birr Urban, Broughal, Cloghan, Clonmacnoise, Derryad, Doon, Drumcullen, Eglisk, Ferbane, Gallen, Hinds, Hunston, Killyon, Lumcloon, Lusmagh, Mounterin, Moyclare, Shannonbridge, Shannonharbour, Srah and Tinamuck.

PART 4

*Description of qualifying mid-Shannon
areas of Roscommon*

The District Electoral Divisions of Athleague East, Athleague West, Athlone West Rural, Ballydangan, Ballynamona, Castlesampson, Caltragh, Cams, Carnagh, Carrowreagh, Cloonburren, Cloonown, Cranagh, Creagh, Culliagh, Drumlosh, Dysart, Fuerty, Kilcar, Kiltoom, Lackan, Lecarrow, Lismaha, Moore, Mote, Rockhill, Roscommon Rural, Roscommon Urban, Scregg, Taghmaconnell, Thomastown and Turrock.

PART 5

*Description of qualifying mid-Shannon
areas of Tipperary*

The District Electoral Divisions of Agliscloghane, Ardrony, Ballina, Ballingarry (in Borrisokane rural area), Ballyibbon, Ballylusky, Ballymackey, Ballynaclogh, Birdhill, Borrisokane, Burgesbeg, Carrig, Carrigatogher, Castletown, Cloghprior, Clohaskin, CloghJordan, Derrycastle, Finnoe, Graigue (in Borrisokane rural area), Greenhall, Kilbarron, Kilcomenty, Killoscully, Kilkeary, Kilmore, Kilnarath, Knigh, Lackagh, Lorrha East, Lorrha West, Mertonhall, Monsea, Nenagh East Urban, Nenagh Rural, Nenagh West Urban, Newport, Rathcabban, Redwood, Riverstown, Terryglass, Uskane and Youghalarra.

PART 6

*Description of qualifying mid-Shannon
areas of Westmeath*

The District Electoral Divisions of Athlone East Rural, Athlone East Urban, Athlone West Urban, Ardnagrath, Auburn, Ballymore, Bellanalack, Carn, Castledaly, Doonis, Drumraney, Glassan, Killinure, Moate, Mount Temple, Moydrum, Muckanagh, Noughaval, Templepatrick, Tubbrit, Umma and Winetown.”,

and

- (c) in Schedule 25B by inserting the following after the matter set out opposite reference number 36:

“

36A.	Section 372AX (accelerated capital allowances in relation to the construction or refurbishment of certain registered holiday camps).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372AX, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
36B.	Section 372AY (capital allowances in relation to the construction or refurbishment of certain tourism infrastructure facilities).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372AY, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.

”.

(2) This section comes into operation on such day or days as the Minister for Finance may by order appoint and different days may be appointed for different purposes or different provisions.

Amendment of section 1008 (separate assessment of partners) of Principal Act.

30.—(1) Section 1008 of the Principal Act is amended—

(a) in subsection (2)(a)—

(i) by renumbering the existing text as subparagraph (i), and

(ii) by inserting the following subparagraph after subparagraph (i):

“(ii) Where for any year or period within the relevant period the aggregate of

the respective amounts (in this subparagraph referred to as the ‘aggregate’) of the profits or gains which under subparagraph (i) are taken as arising to each partner in the partnership is less than the full amount of the profits or gains of the partnership trade for that year or period, then the amount of the difference (in this subparagraph referred to as the ‘balance’) between that full amount and the aggregate shall for the purposes of subsection (1) be apportioned in full between the partners—

- (I) in the ratio which is expressed between the partners in relation to the apportionment of the balance, or
- (II) where there is no such ratio expressed—
 - (A) in the same ratio as the ratio which applies between the respective amounts of the profits or gains which, under subparagraph (i), were taken as arising to each partner, or
 - (B) where no amount of profits or gains was, under subparagraph (i), taken as arising to any individual partner, in equal shares.”,

and

- (b) by deleting subsection (4).

(2) *Subsection (1)* of this section applies as respects the full amount of the profits or gains of a partnership trade (as provided for in subsection (3)(a) of section 1008 of the Principal Act for the purposes of subsection (2) of that section) for any year or period ending on or after 1 January 2007.

- 31.—**(1) Chapter 2 of Part 18 of the Principal Act is amended—
- (a) in section 530(1) by inserting the following after paragraph (c) of the definition of “construction operations”:
- “(ca) the installation in or on any building or structure of systems of telecommunications,”

Amendment of Chapter 2 (payments to subcontractors in certain industries) of Part 18 of Principal Act.

and

- (b) in section 531—
 - (i) in subsection (1)—

- (I) in paragraph (b)(i) by inserting “the development of land (within the meaning of section 639(1)) or” after “the erection of buildings or”, and
- (II) in paragraph (f) by inserting “or any board or body established by or under royal charter and funded wholly or mainly out of moneys provided by the Oireachtas” after “statute”,
- (ii) in subsection (2), by inserting “or develops land” after “buildings”,
- (iii) in subsection (6)—
 - (I) in paragraph (b)(ii) by deleting “and” and in paragraph (b)(iii) by substituting “declarations, and” for “declarations;”, and
 - (II) by inserting the following after paragraph (b)(iii):
 - “(iv) the delivery by principals of any or all such declarations to the Revenue Commissioners;”,
- and
- (iv) in subsection (14)—
 - (I) in paragraph (c)(iv)(II) by deleting “or” and in paragraph (c)(iv)(III) by substituting “declarations, or” for “declarations;”, and
 - (II) by inserting the following after paragraph (c)(iv)(III):
 - “(IV) to deliver declarations to the Revenue Commissioners.”.
- (2) (a) Subject to *paragraph (b)*, *subsection (1)* has effect as on and from the date of passing of this Act.
- (b) *Paragraphs (a)*, *(b)(i)* and *(b)(ii)* of *subsection (1)* have effect as respects relevant contracts entered into on or after 1 May 2007.

Amendment of Part 36A (special savings incentive accounts) of Principal Act.

32.—The Principal Act is amended in Part 36A by inserting the following section after section 848Q:

“Other returns.

848QA.—A qualifying savings manager, who is or was registered in accordance with section 848R, shall when so required by the Revenue Commissioners, make a return to them in an electronic format specified by them, which sets out, in relation to all of the special savings incentive accounts managed by the qualifying savings manager, or such category of those accounts as may be specified by the Revenue Commissioners, such details in relation to each account as the Revenue Commissioners may specify.”.

33.—The Principal Act is amended in Part 36B by inserting the following after section 848AB:

Amendment of Part 36B (pensions: incentive tax credits) of Principal Act.

“Withdrawal of tax credits.

848ABA.—(1) In this section—

‘requested amount’ has the meaning assigned to it in subsection (2);

‘retained amount’, in relation to a requested amount and subject to subsection (4), means the amount determined by the formula—

$$R \times \frac{C}{S + C}$$

where—

R is the requested amount,

C is the aggregate of the tax credit and the additional tax credit, in relation to the pension subscription made by the individual, and

S is the amount of the pension subscription;

‘vesting day’, in relation to an individual’s pension product, means the day on which an administrator, in accordance with section 848AA, treats tax credits as an additional voluntary contribution, a PRSA contribution, or as the case may be, a premium under an annuity contract, made by the individual.

(2) Where the vesting day in relation to an individual’s pension product is on or after 29 September 2006, and, within a period of 1 year commencing on the vesting day, the individual requires the administrator to pay an amount (in this section referred to as a ‘requested amount’) to him or her—

- (a) where payment is to be made on or after 10 April 2007, the administrator shall deduct from the requested amount, the retained amount in relation to the requested amount, and
- (b) where payment is made before 10 April 2007, the individual shall be assessed to income tax for the year of assessment 2007 in such an amount as would ensure that the individual is liable to pay to the Revenue Commissioners an amount equal to the retained amount, in relation to the requested amount.

(3) Where in accordance with subsection (2)(a) an administrator deducts a retained amount, the administrator is liable to pay that amount to the Revenue Commissioners in accordance with arrangements determined by them.

(4) The retained amount, in relation to any part of a requested amount or the aggregate of requested amounts that exceeds the aggregate of the tax credit, the additional tax credit and the pension subscription, shall be a nil amount.

(5) An administrator shall, when requested to do so by the Revenue Commissioners, furnish to them in respect of each individual who required the administrator to pay a requested amount—

- (a) the name of the individual,
- (b) the address of the individual,
- (c) the PPS Number of the individual,
- (d) the amount of tax credit in relation to the pension subscription made by the individual, that was claimed and paid,
- (e) the amount of additional tax credit that was claimed and paid,
- (f) the requested amount,
- (g) the amount deducted by the administrator from the requested amount,
- (h) the date on which payment was made to the individual, and
- (i) such other information as the Revenue Commissioners may require.”.

Certain interest payments by deposit takers.

34.—(1) The Principal Act is amended—

(a) in section 256(1)—

(i) in the definition of “relevant deposit”—

(I) in paragraph (g)(ii) by deleting “or” and in paragraph (h)(ii) by substituting “charity (CHY) number,” for “charity (CHY) number;”, and

(II) by inserting the following paragraphs after paragraph (h):

“(i) which is a deposit referred to in subsection (1A), or

(j) which is a deposit referred to in subsection (1B);”,

(ii) in the definition of “relevant deposit taker” by inserting the following paragraph after paragraph (ca):

“(cb) a specified intermediary in relation only to a specified deposit;”,

- (iii) in the definition of “special term share account” by substituting “section 267A;” for “section 267A.”, and
- (iv) by inserting the following after the definition of “special term share account”:

“ ‘specified deposit’ means a deposit of a class designated by the Minister for Finance for the purposes of this definition;

‘specified intermediary’ means a person appointed by the National Treasury Management Agency for the purposes only of taking specified deposits.”,

- (b) by inserting the following after section 256(1):

“(1A) A deposit shall be a deposit to which this subsection refers as respects any year of assessment if—

- (a) (i) at any time in that year of assessment the individual beneficially entitled to the interest or the individual’s spouse has attained the age of 65 years, and
- (ii) the total income of the individual for that year of assessment does not exceed the specified amount (within the meaning of section 188(2)) applicable to that individual,

and

- (b) a declaration of the kind mentioned in section 263A has been made to the relevant deposit taker.

(1B) A deposit shall be a deposit to which this subsection refers as respects any year of assessment if—

- (a) (i) the individual beneficially entitled to any interest paid in respect of that deposit in that year of assessment, or the individual’s spouse, is a relevant person (within the meaning of section 267(1)(b)) and the individual would, in accordance with section 267(3), be entitled to repayment of the whole of any appropriate tax if it had been deducted from that interest, or
- (ii) the person entitled to any interest paid in respect of that deposit in that year of assessment is a person who is exempt from income tax by virtue of section 189A(2) and that person would, in accordance with section 267(2), be entitled to repayment of the whole of any appropriate tax if it had been deducted from that interest,
- (b) a declaration of the kind mentioned in section 263B has been made to the Revenue Commissioners,

- (c) a notification of the kind mentioned in section 263C has been issued by the Revenue Commissioners to the relevant deposit taker that the deposit is a deposit to which this subsection refers and that notification is not cancelled in accordance with section 263C(2), and
- (d) the individual beneficially entitled to the interest is not an individual referred to in subsection (1A), other than an individual who is a relevant person within the meaning of section 267(1)(b),

and where, by virtue of section 263C(2), a deposit is not a deposit to which this subsection refers as respects any year of assessment, then the Revenue Commissioners shall notify the deposit taker accordingly and where at any time the Revenue Commissioners have so notified the deposit taker, the deposit shall not be a deposit to which this subsection applies from that time.”,

- (c) by inserting the following after section 261A:

“Taxation of specified interest.

261B.—(1) In this section ‘specified interest’ means interest arising to a person in respect of a deposit in relation to which a declaration has been made by the person under subsection (1A) or (1B) of section 256 and which is not included in relevant interest for the purposes of paragraph (c)(i)(II) of section 261.

(2) Notwithstanding any other provision of the Income Tax Acts, the amount of taxable income on which a person is charged to income tax at the standard rate for any year of assessment shall be increased by an amount equal to the amount of that person’s specified interest on which income tax for that year falls to be computed.

(3) Section 246(2) does not apply to a payment of specified interest if it would otherwise apply.”,

- (d) by inserting after section 263 the following:

“Declarations to a relevant deposit taker relating to deposits of certain persons.

263A.—(1) The declaration referred to in section 256(1A) is a declaration in writing to a relevant deposit taker which—

- (a) is made by an individual (in this section referred to as the ‘declarer’) to whom any interest on the deposit in respect of which the declaration is made is payable by the relevant deposit taker and is signed by the declarer,

- (b) is made in such form as may be prescribed, authorised or approved by the Revenue Commissioners,
- (c) declares that at the time when the declaration is made—
 - (i) the individual beneficially entitled to the interest in relation to the deposit or his or her spouse has attained the age of 65 years, and
 - (ii) the total income of the individual for the year of assessment in which the declaration is made will not exceed the specified amount (within the meaning of section 188(2)) applicable to that individual,
- (d) contains as respects the individual, or as the case may be each of the individuals, mentioned in paragraph (c)—
 - (i) the name and address of the individual,
 - (ii) the date of birth of the individual who has attained the age of 65 years, and
 - (iii) the individual's PPS Number (within the meaning of section 891B),
- (e) contains an undertaking by the declarer that if the individual or, as the case may be, any of the individuals mentioned in paragraph (d) no longer satisfies the conditions set out in paragraph (a) of section 256(1A) the declarer will notify the relevant deposit taker accordingly, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter.

(2) Section 263(2) applies as respects declarations of the kind mentioned in this section as it applies as respects declarations of the kind mentioned in that section.

Declarations to the Revenue Commissioners relating to deposits of certain persons.

263B.—The declaration referred to in section 256(1B) is a declaration in writing to the Revenue Commissioners which—

(a) is made by the person (in this section referred to as the ‘declarer’) to whom any interest on the deposit in respect of which the declaration is made is payable by the relevant deposit taker and is signed by the declarer,

(b) is made in such form as may be prescribed, authorised or approved by the Revenue Commissioners,

(c) declares that at the time when the declaration is made—

(i) (I) the individual beneficially entitled to the interest in relation to the deposit or his or her spouse is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself, and

(II) the individual beneficially entitled to any interest paid in respect of that deposit in any year of assessment or his or her spouse, is a relevant person (within the meaning of section 267) and the individual would, in accordance with section 267(3), be entitled to repayment of the whole of any appropriate tax if it had been deducted from that interest,

or

(ii) (I) the person entitled to the interest in relation to the deposit is exempt from income

tax by virtue of section 189A(2), and

- (II) the person entitled to any interest paid in respect of that deposit in any year of assessment is a person referred to in section 189A(2) and would, in accordance with section 267(2), be entitled to repayment of the whole of any appropriate tax if it had been deducted from that interest,
- (d) contains as respects the person, or as the case may be, each of the persons mentioned in paragraph (c)—
- (i) the name and address of the person,
 - (ii) the person's PPS Number (within the meaning of section 891B) or where the person is not an individual, the person's tax reference number (within the meaning of paragraphs (b) and (c) of the definition of 'tax reference number' in section 885),
 - (iii) the name and address of the deposit taker (including the name and address of the branch of the deposit taker, if any) who holds the deposit in respect of which the declaration is made, and
 - (iv) the account number or membership number, as the case may be, of the deposit in respect of which the declaration is made,
- (e) contains an undertaking by the declarer that if the person or, as the case may be, any of the persons mentioned in paragraph (d) no longer satisfies the conditions set out in paragraph (a) of section 256(1B) the declarer will notify the Revenue Commissioners accordingly, and

- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter.

Notifications by the Revenue Commissioners relating to deposits of certain persons.

263C.—(1) The notification referred to in section 256(1B) is a notification—

- (a) in writing by the Revenue Commissioners to a relevant deposit taker confirming that the account identified in the notification is to be treated as not being a relevant deposit unless and until the notification is cancelled in accordance with subsection (2),

- (b) which contains as respects the person beneficially entitled to, or the person (being one or more than one trustee) referred to in section 189A(2) entitled to, the interest in relation to the deposit mentioned in paragraph (a)—

- (i) the name and address of the person,

- (ii) the person's PPS Number (within the meaning of section 891B) or, where the person is not an individual, the person's tax reference number (within the meaning of paragraphs (b) and (c) of the definition of 'tax reference number' in section 885), and

- (iii) the account number of the deposit,

and

- (c) which contains such other information as the Revenue Commissioners may reasonably decide for the purposes of this Chapter.

(2) The Revenue Commissioners may at any time cancel the notification and give notice in writing to that effect to both the relevant deposit taker and the person or persons mentioned in subsection (1)(b). Where at any time the Revenue Commissioners have so notified the deposit taker, the deposit shall not be a deposit to which this section applies from that time.”

(e) by inserting after section 265 the following:

“Deposits of
certain
persons.

265A.—Where a return is required to be made by a relevant deposit taker under section 891 in respect of interest on a deposit which is a deposit of a kind referred to in subsection (1A) or (1B) of section 256, then that return shall, in addition to the matters which shall be included on the return by virtue of section 891, include—

(a) the PPS Number (within the meaning of section 891B) of the person, or

(b) where the person is not an individual, the person’s tax reference number (within the meaning of paragraphs (b) and (c) of section 885).”,

(f) in section 267(3) by substituting “section 189A(4)” for “section 189A(3)”,

(g) in section 891(1A) by substituting the following for paragraph (b):

“(b) This section shall not apply in relation to any interest paid or credited by a credit union in respect of money received or retained by it, other than interest paid or credited by it in respect of a deposit to which subsection (1A) or (1B) of section 256 refers.”,

and

(h) in section 904A(3)(b)(ii)(I) by substituting “section 246A(3)(b)(ii)(III), 263 or 263A,” for “section 246A(3)(b)(ii)(III) or 263.”.

(2) This section applies on and from the date of the passing of this Act.

35.—(1) The Principal Act is amended—

Relief from double
taxation.

(a) in section 826 by substituting the following for subsection (1):

“(1) Where—

(a) the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to—

- (i) affording relief from double taxation in respect of—
 - (I) income tax,
 - (II) corporation tax in respect of income and chargeable gains (or, in the case of arrangements made before the enactment of the Corporation Tax Act 1976, corporation profits tax),
 - (III) capital gains tax,
 - (IV) any taxes of a similar character,
 - imposed by the laws of the State or by the laws of that territory, and
- (ii) in the case of taxes of any kind or description imposed by the laws of the State or the laws of that territory—
 - (I) exchanging information for the purposes of the prevention and detection of tax evasion, or
 - (II) granting relief from taxation under the laws of that territory to persons who are resident in the State for the purposes of tax,

and that it is expedient that those arrangements should have the force of law, and

- (b) the order so made is referred to in Part 1 of Schedule 24A,

then, subject to this section and to the extent provided for in this section, the arrangements shall, notwithstanding any enactment, have the force of law as if each such order were an Act of the Oireachtas on and from the date of—

- (A) the insertion of Schedule 24A into this Act, or
- (B) the insertion of a reference to the order into Part 1 of Schedule 24A,

whichever is the later.

- (1A) Where—

- (a) the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation of air transport undertakings and their employees in respect of all taxes

which are or may become chargeable on profits, income and capital gains imposed by the laws of the State or the laws of that territory, and that it is expedient that those arrangements should have the force of law, and

- (b) the order so made is referred to in Part 2 of Schedule 24A,

then, subject to this section and to the extent provided for in this section, the arrangements shall, notwithstanding any enactment, have the force of law as if each such order were an Act of the Oireachtas on and from the date of—

- (i) the insertion of Schedule 24A into this Act, or
- (ii) the insertion of a reference to the order into Part 2 of Schedule 24A,

whichever is the later.

(1B) Where—

- (a) the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to—
- (i) exchanging information for the purposes of the prevention and detection of tax evasion in the case of taxes of any kind or description imposed by the law of the State or the laws of that territory,
- (ii) such other matters relating to affording relief from double taxation as the Government consider appropriate,

and that it is expedient that those arrangements should have the force of law, and

- (b) the order so made is specified in Part 3 of Schedule 24A,

then, subject to this section, the arrangements shall, notwithstanding any enactment, have the force of law as if each such order were an Act of the Oireachtas on and from the date of the insertion of a reference to the order into Part 3 of Schedule 24A.”,

and

- (b) by inserting the following after Schedule 24:

“SCHEDULE 24A

ARRANGEMENTS MADE BY THE GOVERNMENT WITH THE GOVERNMENT OF ANY TERRITORY OUTSIDE THE STATE IN RELATION TO AFFORDING RELIEF FROM DOUBLE TAXATION AND EXCHANGING INFORMATION IN RELATION TO TAX

PART 1

ARRANGEMENTS IN RELATION TO AFFORDING RELIEF FROM DOUBLE TAXATION IN RESPECT OF THE TAXES REFERRED TO IN SECTION 826(1), MADE BY THE GOVERNMENT AND SPECIFIED IN ORDERS MADE BY THE GOVERNMENT

1. The Double Taxation Relief (Taxes on Income and Capital) (Australia) Order 1983 (S.I. No. 406 of 1983).
2. The Double Taxation Relief (Taxes on Income) (Republic of Austria) Order 1967 (S.I. No. 250 of 1967) and the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Austria) Order 1988 (S.I. No. 29 of 1988).
3. The Double Taxation Relief (Taxes on Income) (Kingdom of Belgium) Order 1973 (S.I. No. 66 of 1973).
4. The Double Taxation Relief (Taxes on Income and Capital Gains) (The Republic of Bulgaria) Order 2000 (S.I. No. 372 of 2000).
5. The Double Taxation Relief (Taxes on Income and Capital Gains) (Government of Canada) Order 2004 (S.I. No. 773 of 2004).
6. The Double Taxation Relief (Taxes on Income) (People’s Republic of China) Order 2000 (S.I. No. 373 of 2000).
7. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Croatia) Order 2002 (S.I. No. 574 of 2002).
8. The Double Taxation Relief (Taxes on Income) (Cyprus) Order 1970 (S.I. No. 79 of 1970).
9. The Double Taxation Relief (Taxes on Income and Capital) (Czech Republic) Order 1995 (S.I. No. 321 of 1995).
10. The Double Taxation Relief (Taxes on Income) (Kingdom of Denmark) Order 1993 (S.I. No. 286 of 1993).
11. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Estonia) Order 1998 (S.I. No. 496 of 1998).
12. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Finland) Order 1993 (S.I. No. 289 of 1993).
13. The Double Taxation Relief (Taxes on Income) (Republic of France) Order 1970 (S.I. No. 162 of 1970).

14. The Double Taxation Relief (Taxes on Income and Capital and Gewerbesteuer (Trade Tax)) (Federal Republic of Germany) Order 1962 (S.I. No. 212 of 1962).

15. The Double Taxation Relief (Taxes on Income and Capital Gains) (Government of the Hellenic Republic) Order 2004 (S.I. No. 774 of 2004).

16. The Double Taxation Relief (Taxes on Income) (Republic of Hungary) Order 1995 (S.I. No. 301 of 1995).

17. The Double Taxation Relief (Taxes on Income and on Capital) (Republic of Iceland) Order 2004 (S.I. No. 775 of 2004).

18. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of India) Order 2001 (S.I. No. 521 of 2001).

19. The Double Taxation Relief (Taxes on Income) (Italy) Order 1973 (S.I. No. 64 of 1973).

20. The Double Taxation Relief (Taxes on Income) (State of Israel) Order 1995 (S.I. No. 323 of 1995).

21. The Double Taxation Relief (Taxes on Income) (Japan) Order 1974 (S.I. No. 259 of 1974).

22. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Korea) Order 1991 (S.I. No. 290 of 1991).

23. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Latvia) Order 1997 (S.I. No. 504 of 1997).

24. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Lithuania) Order 1997 (S.I. No. 503 of 1997).

25. The Double Taxation Relief (Taxes on Income and on Capital) (Grand Duchy of Luxembourg) Order 1973 (S.I. No. 65 of 1973).

26. The Double Taxation Relief (Taxes on Income) (Malaysia) Order 1998 (S.I. No. 495 of 1998).

27. The Double Taxation Relief (Taxes on Income and Capital Gains) (The United Mexican States) Order 1998 (S.I. No. 497 of 1998).

28. The Double Taxation Relief (Taxes on Income and Capital) (Kingdom of the Netherlands) Order 1970 (S.I. No. 22 of 1970).

29. The Double Taxation Relief (Taxes on Income and Capital Gains) (New Zealand) Order 1988 (S.I. No. 30 of 1988).

30. The Double Taxation Relief (Taxes on Income and on Capital) (Kingdom of Norway) Order 2001 (S.I. No. 520 of 2001).

31. The Double Taxation Relief (Taxes on Income) (Pakistan) Order 1974 (S.I. No. 260 of 1974).

32. The Double Taxation Relief (Taxes on Income) (Republic of Poland) Order 1995 (S.I. No. 322 of 1995).

33. The Double Taxation Relief (Taxes on Income) (Portuguese Republic) Order 1994 (S.I. No. 102 of 1994) and the Double Taxation Relief (Taxes on Income) (Portuguese Republic) Order 2005 (S.I. No. 816 of 2005).

34. The Double Taxation Relief (Taxes on Income and Capital Gains) (Romania) Order 1999 (S.I. No. 427 of 1999).

35. The Double Taxation Relief (Taxes on Income) (Russian Federation) Order 1994 (S.I. No. 428 of 1994).

36. The Double Taxation Relief (Taxes on Income and Capital Gains) (The Slovak Republic) Order 1999 (S.I. No. 426 of 1999).

37. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Slovenia) Order 2002 (S.I. No. 573 of 2002).

38. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of South Africa) Order 1997 (S.I. No. 478 of 1997).

39. The Double Taxation Relief (Taxes on Income and Capital Gains) (Kingdom of Spain) Order 1994 (S.I. No. 308 of 1994).

40. The Double Taxation Relief (Taxes on Income and Capital Gains) (Sweden) Order 1987 (S.I. No. 348 of 1987) and the Double Taxation Relief (Taxes on Income and Capital Gains) (Sweden) Order 1993 (S.I. No. 398 of 1993).

41. The Double Taxation Relief (Taxes on Income and Capital) (Swiss Confederation) Order 1967 (S.I. No. 240 of 1967) and the Double Taxation Relief (Taxes on Income and Capital) (Swiss Confederation) Order 1984 (S.I. No. 76 of 1984).

42. The Double Taxation Relief (Taxes on Income and Capital Gains) (United Kingdom) Order 1976 (S.I. No. 319 of 1976), the Double Taxation Relief (Taxes on Income and Capital Gains) (United Kingdom) Order 1995 (S.I. No. 209 of 1995) and the Double Taxation Relief (Taxes on Income and Capital Gains) (United Kingdom of Great Britain and Northern Ireland) Order 1998 (S.I. No. 494 of 1998).

43. The Double Taxation Relief (Taxes on Income and Capital Gains) (United States of America) Order 1997 (S.I. No. 477 of 1997) and the Double Taxation Relief (Taxes on Income and Capital Gains) (United States of America) Order 1999 (S.I. No. 425 of 1999).

44. The Double Taxation Relief (Taxes on Income) (Republic of Zambia) Order 1973 (S.I. No. 130 of 1973).

45. The Double Taxation Relief (Taxes on Income) (Adjustment of Profits of Associated Enterprises) (European Community) Order 1994 (S.I. No. 88 of 1994) as amended by the Double Taxation Relief (Taxes on Income) (Adjustment of Profits of Associated Enterprises) (European Communities) Order 2004 (S.I. No. 40 of 2004), the Double Taxation Relief (Taxes on Income) (Adjustment of Profits of Associated Enterprises) (Republic of Austria, Republic of Finland and Kingdom of Sweden) Order 2004 (S.I. No. 41 of 2004) and the Double Taxation Relief (Taxes on Income) (Adjustment of Profits of Associated Enterprises) (Accession States) Order 2006 (S.I. No. 112 of 2006).

PART 2

ARRANGEMENTS, PURSUANT TO SECTION 826(1A) IN
RELATION TO AFFORDING RELIEF FROM DOUBLE TAXATION
OF AIR TRANSPORT UNDERTAKINGS AND THEIR EMPLOYEES,
MADE BY THE GOVERNMENT AND SPECIFIED IN ORDERS
MADE BY THE GOVERNMENT

Double Taxation Relief (Air Transport Undertakings and their Employees) (Union of Soviet Socialist Republics) Order 1987 (S.I. No. 349 of 1987).

PART 3

ARRANGEMENTS, PURSUANT TO SECTION 826(1B) IN
RELATION TO EXCHANGE OF INFORMATION RELATING TO
TAX AND IN RELATION TO OTHER MATTERS RELATING TO
TAX”.

(2) *Schedule 2* applies for the purposes of supplementing *subsection (1)*.

(3) This section has effect as on and from the passing of this Act.

36.—(1) The Principal Act is amended—

(a) by inserting the following section after section 826:

“Unilateral relief from double taxation.

826A.—Where relief from double taxation is not afforded by virtue of section 826, relief (known as ‘unilateral relief’) from tax shall be given in respect of tax paid under the laws of a territory other than the State in accordance with Schedule 24.”,

and

(b) in Schedule 24—

(i) by inserting the following after paragraph 9D:

“*Unilateral Relief (branch profits)*

9DA.—(1) To the extent appearing from the following provisions of this paragraph, relief (in this

Unilateral relief from double taxation.

paragraph referred to as ‘unilateral relief’) from corporation tax in respect of profits of a company from a trade carried on by the company through a branch or agency in a territory other than the State shall be given in respect of tax payable under the law of any territory other than the State by allowing that tax as a credit against corporation tax, notwithstanding that there are not for the time being in force any arrangements providing for such relief.

(2) Unilateral relief shall be such relief as would fall to be given under this Schedule if arrangements with the government of the territory in question containing the provisions in subparagraphs (3) to (5) were in force, and a reference in this Schedule to credit under arrangements shall be construed as including a reference to unilateral relief.

(3) Subject to Part 1 and to subparagraph (5), credit for tax paid under the law of a territory other than the State and computed by reference to income of a company, being a company falling within subparagraph (4), from a trade carried on by it through a branch or agency in that territory shall be allowed against corporation tax in the State computed by reference to that income.

(4) (a) A company falls within this subparagraph if—

(i) it is resident in the State, or

(ii) it is, by virtue of the law of a relevant Member State other than the State, resident for the purposes of tax in such a Member State and the income referred to in subparagraph (3) forms part of the income of a branch or agency of the company in the State.

(b) For the purposes of subparagraph (a)(ii), ‘tax’, in relation to a relevant Member State other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State.

(5) Credit shall not be allowed by virtue of subparagraph (3)—

(a) for tax paid under the law of a territory where there are arrangements with the government of the territory except to the extent that credit may not be given for that tax under those arrangements, or

(b) for any tax which is relevant foreign tax within the meaning of section 449 or paragraph 9D.

(6) Where—

(a) unilateral relief may be given in respect of any profits, and

- (b) it appears that the assessment to corporation tax made in respect of the profits is not made in respect of the full amount thereof, or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief,

then any such assessment may be made or amended as is necessary to ensure that the total amount of the profits is assessed, and the proper credit, if any, is given in respect thereof.

(7) In this Schedule in its application to unilateral relief, references to tax payable or paid under the law of a territory outside the State include only references to taxes which are charged on income or capital gains and which correspond to corporation tax and capital gains tax.”,

and

- (ii) by inserting the following after paragraph 9F:

“9FA.—(1) In this paragraph—

‘aggregate amount of corporation tax payable by a company for an accounting period in respect of foreign branch income of the company for the accounting period’ means so much of the corporation tax which, apart from this paragraph, would be payable by the company for that accounting period as would not have been payable had the foreign branch income been disregarded for the purposes of tax;

‘foreign branch’, in relation to a company, means a branch or agency of the company in a territory other than the State through which the company carries on a trade in that territory;

‘foreign branch income’, in relation to a company, means so much of the income of the company as is attributable to a foreign branch;

‘foreign tax’, in relation to foreign branch income of a company, means tax which—

- (a) is paid under the laws of the territory in which the foreign branch is situated on income attributable to that branch, and
- (b) corresponds to corporation tax.

(2) Where, as respects any foreign branch income of a company for an accounting period, any part of the foreign tax cannot, apart from this paragraph, be allowed as a credit against corporation tax and, accordingly, the amount of the income is treated under paragraph 7(3)(c) as reduced by that part of the foreign tax, then an amount equal to the aggregate of—

- (a) where income that is chargeable to tax at the rate specified in section 21(1) for the

accounting period is treated under paragraph 7(3)(c) as reduced, an amount determined by the formula—

$$\frac{100 - R}{100} \times D$$

where—

R is the rate per cent specified in section 21(1), and

D is the amount by which that income is so treated as reduced,

and

- (b) where income that is chargeable to tax at the rate specified in section 21A(3) for the accounting period is treated under paragraph 7(3)(c) as reduced, an amount determined by the formula—

$$\frac{100 - R}{100} \times D$$

where—

R is the rate per cent specified in section 21A(3), and

D is the amount by which that income is so treated as reduced,

shall be treated for the purposes of subparagraph (3) as unrelieved foreign tax of that accounting period.

(3) The aggregate amount of corporation tax payable by a company for an accounting period in respect of foreign branch income of the company for the accounting period shall be reduced by the unrelieved foreign tax of that accounting period.

Unilateral Relief (capital gains)

9FB.—(1) To the extent appearing from the following provisions of this paragraph, relief (in this paragraph referred to as ‘unilateral relief’) from capital gains tax (including corporation tax in respect of chargeable gains) in respect of chargeable gains accruing to a person on the disposal of an asset (in this paragraph referred to as a ‘specified asset’) which is located in a territory other than the State shall be given in respect of tax payable under the law of any specified territory by allowing that tax as a credit against capital gains tax (or as the case may be corporation tax in respect of chargeable gains), notwithstanding that there are not for the time being in force any arrangements providing for such relief.

(2) Unilateral relief shall be such relief as would fall to be given under this Schedule if arrangements

with the government of the specified territory in question contained the provisions in subparagraphs (3) and (4), and a reference in this Schedule to credit under arrangements shall be construed as including a reference to unilateral relief.

(3) Subject to Part 1 and to subparagraph (5), credit for tax paid under the law of a specified territory and computed by reference to a capital gain of a person from the disposal by the person of a specified asset, shall be allowed against capital gains tax (or as the case may be corporation tax in respect of chargeable gains) in the State computed by reference to that capital gain.

(4) Credit shall not be allowed by virtue of subparagraph (3) for tax paid under the law of a specified territory to the extent that credit may be given for that tax under—

- (a) arrangements with the government of the territory, or
- (b) any other provision of this Schedule.

(5) Where—

- (a) unilateral relief may be given in respect of any chargeable gain, and
- (b) it appears that any assessment made in respect of the chargeable gain is not made in respect of the full amount thereof, or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief,

then any such assessment may be made or amended as is necessary to ensure that the total amount of the chargeable gain is assessed, and the proper credit, if any, is given in respect thereof.

(6) In this Schedule in its application to unilateral relief, references to tax payable or paid under the law of a territory outside the State include only references to taxes which are charged on capital gains and which correspond to income tax, corporation tax or capital gains tax.

(7) In this paragraph ‘specified territory’ means any of the following territories with the government of which arrangements have been made, that is to say, the Kingdom of Belgium, Cyprus, the Republic of France, the Federal Republic of Germany, the Italian Republic, Japan, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, Pakistan or Zambia.”.

(2) This section applies—

- (a) in the case of relief from corporation tax, as respects an accounting period ending on or after 1 January 2007, and

- (b) in any other case, for the year of assessment 2007 and subsequent years.

Amendment of section 81 (general rule as to deductions) of Principal Act.

37.—(1) Section 81 of the Principal Act is amended in subsection (2)(n)—

- (a) in subparagraph (i) by deleting “or” and in subparagraph (ii) by substituting “length, or” for “length.”, and
- (b) by inserting the following after subparagraph (ii):

“(iii) of other—

(I) expenditure incurred, or

(II) payment made to the connected company,

by the company in connection with the right to receive such shares which is incurred or, as the case may be, made for *bona fide* commercial purposes and does not form part of any scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of liability to income tax, corporation tax or capital gains tax.”.

(2) This section applies as respects accounting periods ending on or after 1 February 2007.

Dividend withholding tax.

38.—(1) The Principal Act is amended—

(a) In section 172A(1)(a)—

- (i) by inserting the following after the definition of “dividend withholding tax”:

“ ‘electronic dividend voucher’ means a statement in electronic format that satisfies the requirements of section 172I(1A)(a);

‘electronic number’ means a unique number on an electronic dividend voucher;”,

- (ii) by inserting the following after the definition of “intermediary”:

“ ‘ISI Number’, in relation to a security issued by a company, means that security’s unique International Securities Identification Number (ISIN) issued by the Irish Stock Exchange Limited or by an equivalent authority in a relevant territory;”,

and

- (iii) by inserting the following after the definition of “qualifying savings manager”:

“ ‘recipient ID code’, in relation to the recipient of a dividend, means the unique code on an electronic dividend voucher that identifies that recipient;”,

- (b) in section 172D(3)(b)(iii) by substituting “is substantially and regularly traded on a stock exchange in the State, on” for “is substantially and regularly traded on”,
- (c) in section 172I by inserting the following after subsection (1):
- “(1A) A statement delivered by means of electronic communications to an intermediary shall satisfy the requirements of subsection (1) where—
- (a) the statement contains—
- (i) an ISI Number,
- (ii) a recipient ID code,
- (iii) the information referred to in paragraphs (c) to (e) of subsection (1), and
- (iv) an electronic number,
- (b) the intermediary has consented to the statement being delivered by means of electronic communications and has not withdrawn that consent, and
- (c) the Revenue Commissioners have agreed to accept the statement for the purposes of this Chapter.”,
- (d) in section 172J(3) by substituting “Where, in a year of assessment or in an accounting period of a company (as appropriate),” for “Where”, and
- (e) in paragraph 9(f)(iii) of Schedule 2A, by substituting “is substantially and regularly traded on a stock exchange in the State, on” for “is substantially and regularly traded on”.
- (2) (a) *Paragraphs (a), (b), (c) and (e) of subsection (1) apply as respects any relevant distribution (within the meaning of section 172A of the Principal Act) made on or after 1 February 2007.*
- (b) *Paragraph (d) of subsection (1) applies as respects any chargeable period (within the meaning of section 321(2) of the Principal Act) ending on or after 1 February 2007.*

39.—(1) Part 27 of the Principal Act is amended—

- (a) in section 747B—

- (i) in subsection (2), by substituting “Subject to subsection (2A), this Chapter” for “This Chapter”, and
- (ii) by inserting the following after subsection (2):

Amendment of Part 27 (unit trusts and offshore funds) of Principal Act.

“(2A) This Chapter does not apply to an offshore fund other than an offshore fund which—

- (a) (i) is an undertaking for collective investment formed under the law of an offshore state,
 - (ii) is similar in all material respects to an investment limited partnership (within the meaning of the Investment Limited Partnership Act 1994), and
 - (iii) holds a certificate authorising it to act as such an undertaking, being a certificate issued by the authorities of that state under laws providing for the proper and orderly regulation of such undertakings,
- (b) is authorised by or under any measures duly taken by a Member State for the purposes of giving effect to—
- (i) Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), or
 - (ii) any amendment to that Directive,
- (c) (i) is a company formed under the law of an offshore state,
- (ii) is similar in all material respects to an authorised investment company (within the meaning of Part XIII of the Companies Act 1990),
 - (iii) holds an authorisation issued by the authorities of that state under laws providing for the proper and orderly regulation of such companies and that authorisation has not ceased to have effect, and
 - (iv) is an investment company—
 - (I) which raises capital by promoting the sale of its shares to the public, or
 - (II) each of the shareholders of which is an investor which, if the company were an authorised investment company within the meaning of Part XIII of the Companies Act 1990 would be a collective investor within the meaning of section 739B,

or

- (d) (i) is a unit trust scheme, the trustees of which are not resident in the State,
- (ii) is similar in all material respects to an authorised unit trust scheme (within the meaning of the Unit Trusts Act 1990),
- (iii) holds an authorisation issued by the authorities of that offshore state under laws providing for the proper and orderly regulation of such schemes and that authorisation has not ceased to have effect, and
- (iv) provides facilities for the participation by the public, as beneficiaries under the trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever.”,

and

- (b) by inserting the following after section 747A:

“Treatment of certain offshore funds. 747AA.—Without prejudice to ‘offshore fund’ having the meaning assigned to it by section 743 for the purposes of Chapter 4, where that Chapter does not apply to an offshore fund by virtue of subsection (2A) of section 747B, then Chapter 2 and section 747A shall not apply in respect of that offshore fund.”.

- (2) (a) Subject to *paragraph (b)*, *subsection (1)* applies as respects income arising or gains accruing on or after 20 February 2007.
- (b) Where on 20 February 2007 a person had a material interest in an offshore fund, which was an offshore fund to which Chapter 4 of Part 27 of the Principal Act applied before the passing of this Act, and that fund—
 - (i) is not an offshore fund to which Chapter 4 of Part 27 of the Principal Act applies after the passing of this Act, and
 - (ii) would not be a personal portfolio investment undertaking (within the meaning of section 739BA of the Principal Act) if it were deemed to be a fund to which that Chapter applied after the passing of this Act,

then *subsection (1)* does not apply to income arising and gains accruing in respect of the material interest which the person had on 20 February 2007.

Investment undertakings and certain offshore funds: taxation of personal portfolio investment undertakings.

40.—(1) The Principal Act is amended—

(a) by inserting the following after section 739B:

“Personal portfolio investment undertaking.

739BA.—(1) In this section—

‘investor’ means—

(a) in relation to an investment undertaking, a unit holder in the investment undertaking who is an individual, and

(b) in relation to an offshore fund to which Chapter 4 applies, an individual who has a material interest in the offshore fund;

‘land’ has the same meaning as in section 730BA;

‘material interest’ shall be construed in accordance with section 743;

‘offshore fund’ has the meaning assigned to it by section 743;

‘public’ has the same meaning as in section 730BA.

(2) In this Chapter and in Chapter 4 of this Part ‘personal portfolio investment undertaking’ means—

(a) in relation to an investor in an investment undertaking, an investment undertaking, and

(b) in relation to an investor in an offshore fund to which Chapter 4 applies, such an offshore fund,

under the terms of which some or all of the property of the undertaking or, as the case may be, the offshore fund, may be, or was, selected by, or the selection of some or all of the property may be, or was, influenced by—

(i) the investor,

(ii) a person acting on behalf of the investor,

(iii) a person connected with the investor,

(iv) a person connected with a person acting on behalf of the investor,

(v) the investor and a person connected with the investor, or

- (vi) a person acting on behalf of both the investor and a person connected with the investor,

where 'person connected' in this subsection means a person connected within the meaning of section 10.

(3) For the purposes of subsection (2) and without prejudice to the application of that subsection, the terms of an investment undertaking or an offshore fund, as the case may be, shall be treated as permitting the selection referred to in that subsection where—

- (a) the terms of such undertaking or offshore fund, or any other agreement between any person referred to in that subsection and such undertaking or offshore fund concerned—

- (i) allow the exercise of an option by any person referred to in that subsection to make the selection referred to in that subsection,

- (ii) give such undertaking or offshore fund discretion to offer any person referred to in that subsection the right to make the selection referred to in that subsection, or

- (iii) allow any of the persons referred to in that subsection the right to request, subject to the agreement of such undertaking or offshore fund, a change in those terms such that the selection referred to in that subsection may be made by any of those persons,

or

- (b) the investor is unable under those terms to select any of the property but any of the persons referred to in that subsection has or had the option of requiring such undertaking or offshore fund to appoint an investment advisor (no matter how such a person is described) in relation to the selection of the property.

(4) An investment undertaking or an offshore fund, as the case may be, is not a personal portfolio investment undertaking if—

- (a) the only property which may be or has been selected satisfies the condition specified in subsection (5), and
- (b) the terms under which such undertaking or offshore fund is offered meet the requirements of subsection (6).

(5) The condition specified in this subsection is that at the time when the property is or was available to be selected the opportunity to select—

- (a) in the case of land, that property, and
- (b) in any other case, property of the same description as the first-mentioned property,

is or was available to the public on terms which provide or provided that the opportunity to select the property is or was available to any person falling within the terms of the opportunity and that opportunity is or was clearly identified to the public, in marketing or other promotional literature published at that time by the investment undertaking or offshore fund concerned, as available generally to any person falling within the terms of the opportunity.

(6) The requirements of this subsection are that—

- (a) the investment undertaking or offshore fund concerned does not subject any person to any treatment in connection with the opportunity which is different or more burdensome than any treatment to which any other person is or may be subject, and
- (b) where the terms of the opportunity referred to in subsection (5) include terms—
 - (i) which set out the capital requirement of the opportunity and this requirement is identified to the public in the marketing or other promotional material published by the investment

undertaking or offshore fund at the time the property is available to be selected, and

- (ii) indicating that 50 per cent or more by value of the property referred to in that subsection is or is to be land,

then the amount any one person may invest in the investment undertaking or offshore fund shall not represent more than 1 per cent of the capital requirement (exclusive of any borrowings) of the opportunity as so identified.”,

- (b) in section 739E, by substituting the following for paragraphs (a) and (b) of subsection (1):

“(a) subject to paragraph (ba), where the amount of the gain is provided by section 739D(2)(a), at the standard rate for the year of assessment in which the gain arises,

- (b) subject to paragraph (ba), where the chargeable event happens on or after 1 January 2001 and the amount of the gain is provided by paragraph (b), (c), (d), (dd) or (ddd) of section 739D(2), at a rate determined by the formula—

$(S + 3)$ per cent,

where S is the standard rate per cent (within the meaning of section 4),

- (ba) where in the case of a personal portfolio investment undertaking, the chargeable event happens on or after 20 February 2007, at a rate determined by the formula—

$(S + 23)$ per cent,

where S is the standard rate per cent (within the meaning of section 4), and”,

- (c) in section 747D, by substituting the following for paragraph (a):

“(a) where the person is not a company, and—

- (i) the income represented by the payment is correctly included in a return made by the person, then notwithstanding section 15, the rate of income tax to be charged on the income shall be—

- (I) where the payment is a relevant payment—

- (A) in the case of an offshore fund which is a personal portfolio investment undertaking, at the rate determined by the formula—

(S + 23) per cent,

where S is the standard rate per cent for the year of assessment in which the payment is made, and

- (B) in any other case, the standard rate per cent,

and

- (II) where the payment is not a relevant payment and is not made in consideration of the disposal of an interest in the offshore fund—

- (A) in the case of an offshore fund which is a personal portfolio investment undertaking, at the rate determined by the formula—

(S + 23) per cent,

where S is the standard rate per cent for the year of assessment in which the payment is made, and

- (B) in any other case, at the rate determined by the formula—

(S + 3) per cent,

where S is the standard rate per cent,

and

- (ii) where the income represented by the payment is not correctly included in a return made by the person, the income shall be charged to income tax—

- (I) in the case of an offshore fund which is a personal portfolio investment undertaking, at the rate determined by the formula—

(H + 20) per cent,

where H is the rate per cent determined in relation to the person by section 15 for the year of assessment in which the payment is made, and

- (II) in any other case, at a rate determined by section 15,”

and

- (d) in section 747E, by substituting the following for subsection (1):

“(1) Where on or after 1 January 2001 a person who has a material interest in an offshore fund, disposes of an interest in the offshore fund and the disposal gives rise to a gain computed in accordance with subsection (2) then, notwithstanding sections 745 and 747, where the gain is not taken into account in computing the profits or gains of a trade carried on by a company, the amount of that gain shall be treated as an amount of income chargeable to tax under Case IV of Schedule D, and—

- (a) where the person is a company, the rate of corporation tax to be charged on that income shall, notwithstanding section 21A(3), be the rate of income tax chargeable on income referred to in subparagraph (ii) of paragraph (b), and

- (b) where the person is not a company, and the person has correctly included details of the disposal in a return made by the person, the rate of income tax to be charged on that income shall, notwithstanding section 15, be the rate determined—

- (i) in the case of an offshore fund which is a personal portfolio investment undertaking, by the formula—

$(S + 23)$ per cent,

where S is the standard rate per cent for the year of assessment in which the payment is made, and

- (ii) in any other case, by the formula—

$(S + 3)$ per cent,

where S is the standard rate per cent.”.

- (2) *Subsection (1)* applies as respects—

- (a) the occurrence of a chargeable event in relation to an investment undertaking (within the meaning of Chapter 1A of Part 27 of the Principal Act),
- (b) the receipt by a person of a payment in respect of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act), and
- (c) the disposal in whole or in part of a material interest in an offshore fund (within that meaning),

on or after 20 February 2007.

Amendment of section 739D (gain arising on a chargeable event) of Principal Act.

41.—Section 739D of the Principal Act is amended in subsection (6)—

- (a) in paragraph (j) by deleting “or”,
- (b) in paragraph (k) by deleting “or 110(2)”, and
- (c) by inserting the following after paragraph (k):

“(l) is the National Pensions Reserve Fund Commission and has made a declaration to that effect to the investment undertaking, or

(m) is a company that—

- (i) is or will be within the charge to corporation tax in accordance with section 110(2), in respect of payments made to it by the investment undertaking, and
- (ii) has made a declaration to that effect and has provided the investment undertaking with the company’s tax reference number (within the meaning of section 885).”.

Amendment of section 730H (interpretation and application) of Principal Act.

42.—(1) Section 730H of the Principal Act is amended in subsection (1)—

- (a) in the definition of “relevant event” by substituting “period;” for “period, where”, and
- (b) by substituting the following for the definition of “relevant period”:

“ ‘relevant period’ in relation to a foreign life policy means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period;”.

(2) This section applies as respects any relevant event (within the meaning of section 730H(1) of the Principal Act) occurring on or after the passing of this Act in respect of a foreign life policy (within the meaning of section 730H(1) of the Principal Act) taken out on or after 1 January 2001.

Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act.

43.—(1) Chapter 5 of Part 26 of the Principal Act is amended—

- (a) in section 730C(1)(a) by substituting the following for subparagraph (iv):

“(iv) the ending of a relevant period, where such ending is not otherwise a chargeable event within the meaning of this section, and for the purposes of this subparagraph ‘relevant period’, in relation to a life policy, means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period;”.

(b) by substituting the following for section 730D(1A):

“730D.—(1A) (a) Where—

- (i) a chargeable event occurs in relation to a life policy, and
- (ii) a chargeable event within the meaning of section 730C(1)(a)(iv) occurred previously in relation to that policy,

then the gain arising on the chargeable event referred to in subparagraph (i) shall be determined as if section 730C(1)(a)(iv) had not been enacted.

(b) Where paragraph (a) applies and the chargeable event referred to in subparagraph (i) of that paragraph is not the surrender or assignment of part of the rights conferred by the life policy, any first tax (within the meaning of section 730F(1A)) shall, for the purposes of subsection (3), be added to the value of the rights or other benefits conferred by that policy immediately before the chargeable event.

(c) Where paragraph (a) applies and the chargeable event referred to in subparagraph (i) of that paragraph is the surrender or assignment of part of the rights conferred by the life policy, any first tax (within the meaning of section 730F(1A)) shall, for the purposes of subsection (3), be deducted from the amount of premiums taken into account in determining the gain on the happening of the chargeable event.”,

(c) in section 730D(3), in the construction of P, by substituting “of a chargeable event (not being a chargeable event within the meaning of section 730C(1)(a)(iv)),” for “of a chargeable event,”, and

(d) in section 730F(1A)—

(i) in the definition of “first tax” by substituting “within the meaning of section 730C(1)(a)(iv) in relation to the life policy and which has not been repaid;” for “referred to in subsection 730D(1A)(b) in relation to the life policy;”,

(ii) by substituting the following for the definition of “new gain”:

“ ‘new gain’, in relation to a life policy, means a gain referred to in section 730D(1A)(a) determined in accordance with section 730D in relation to the life policy;”,

(iii) in paragraph (b)(i) by substituting “section 730D(1A)(a)” for “subsection 730D(1A)”,

(iv) in paragraph (b)(ii) by deleting “, subject to subparagraph (iii)”, and

(v) by deleting subparagraph (iii) of paragraph (b).

(2) This section applies and has effect as respects any chargeable event (within the meaning of section 730C(1)(a)(iv) of the Principal Act) occurring on or after the passing of this Act.

Amendment of Chapter 1 (transfer of assets abroad) of Part 33 of Principal Act.

44.—(1) Chapter 1 of Part 33 of the Principal Act is amended—

(a) in section 806—

(i) in subsection (1), in the definition of “associated operation” by inserting “and for the purposes of this definition it is immaterial whether the operation is effected before, after, or at the same time as the transfer;” after “any such assets;”,

(ii) in subsection (2)—

(I) by deleting “and” at the end of paragraph (b) and by substituting “transferred,” for “transferred.” at the end of paragraph (c), and

(II) by inserting the following after paragraph (c):

“(d) the income that becomes payable to, or has become income of, a person resident or domiciled out of the State that is referred to in subsection (3) or (5) or in section 807A(1) includes any income which becomes payable to, or has become income of, the person by virtue or in consequence of—

(i) the transfer,

(ii) one or more associated operations, or

(iii) the transfer and one or more associated operations,

and

(e) the income which an individual has power to enjoy, as referred to in subsection (4), includes any income which that individual has power to enjoy by virtue or in consequence of—

(i) the transfer,

(ii) one or more associated operations, or

(iii) the transfer and one or more associated operations.”,

(iii) in subsection (8) by substituting “Subject to section 807B, subsections (4) and (5)” for “Subsections (4) and (5)”,

- (iv) in subsection (9), by substituting “subsection (8) or (10) or section 807B or 807C” for “subsection (8)”, and
- (v) by inserting the following after subsection (9):
- “(10) (a) In this subsection—
- ‘commercial transaction’ does not include—
- (i) a transaction on terms other than those that would have been made between independent persons dealing at arm’s length, or
- (ii) a transaction that would not have been entered into between independent persons dealing at arm’s length;
- ‘independent persons’ means persons who are not connected with each other (within the meaning of section 10);
- ‘relevant transactions’ means—
- (i) the transfer, and
- (ii) any associated operations.
- (b) Subject to section 807B, subsections (4) and (5) shall not apply by reference to the relevant transactions where the individual shows in writing or otherwise to the satisfaction of the Revenue Commissioners—
- (i) that it would not be reasonable to draw the conclusion, from all the circumstances of the case, that the purpose of avoiding liability to taxation was the purpose, or one of the purposes, for which the relevant transactions or any of them were effected, or
- (ii) in a case where the condition in subparagraph (i) is not met, that—
- (I) all the relevant transactions were genuine commercial transactions, and
- (II) it would not be reasonable to draw the conclusion, from all the circumstances of the case, that any one or more of those transactions was more than incidentally designed for the purpose of avoiding liability to taxation.
- (c) The intentions and purposes of any person who, whether or not for consideration—

- (i) designs or effects the relevant transactions or any of them, or
- (ii) provides advice in relation to the relevant transactions or any of them,

are to be taken into account in determining the purposes for which those transactions or any of them were effected.

(d) A relevant transaction is a commercial transaction only if it is effected—

- (i) in the course of a trade or business, or
- (ii) with a view to setting up and commencing a trade or business,

and, in either cases, for the purposes of such trade or business.

(e) For the purposes of paragraph (d), the making and managing of investments, or the making or managing of investments, is not a trade or business except to the extent that—

- (i) the person by whom it is done, and
- (ii) the person for whom it is done,

are independent persons dealing at arm's length.

(f) Any associated operation that would not (apart from this paragraph) fall to be taken into account for the purposes of this subsection shall be taken into account for those purposes if, were it to be so taken into account, the conditions in paragraph (b) would be failed by reference to—

- (i) that associated operation, or
- (ii) that associated operation taken together with the transfer or any one or more other associated operations.”,

(b) by inserting the following after section 807A:

“Certain transitional arrangements in relation to transfer of assets abroad.

807B.—(1) In this section—

‘new transaction’ means a relevant transaction effected on or after the relevant date;

‘old transaction’ means a relevant transaction effected before the relevant date;

‘relevant date’ means 1 February 2007;

‘relevant transactions’ has the meaning assigned to it by section 806(10).

(2) For the purposes of applying subsection (3) of this section and subsections (8) and (10) of section 806—

- (a) if all the relevant transactions are old transactions, section 806(8) shall apply,
- (b) if all the relevant transactions are new transactions, section 806(10) shall apply,
- (c) if any one or more of the relevant transactions are old transactions and any one or more of the relevant transactions are new transactions, sections 806 and 807A shall apply subject to subsection (3).

(3) (a) Where—

- (i) the conditions in section 806(8) are failed by reference to the old transactions or any of them, or
- (ii) the conditions in section 806(10)(b) are failed by reference to the new transactions or any of them,

then, subject to paragraph (b), sections 806 and 807A apply as they would have applied apart from any exemption by virtue of this section or by virtue of section 806(8) or section 806(10).

(b) Where paragraph (a) applies by virtue only of subparagraph (ii) of that paragraph—

- (i) for the purposes of subsection (4) or (5)(b) of section 806 any income arising before the relevant date shall not be brought into account as income of the person resident or domiciled out of the State,
- (ii) for the purposes of section 807A—

(I) (A) where a benefit is received by an individual in a

year of assessment ending after the relevant date, and

- (B) relevant income (within the meaning of section 807A(3)) of years of assessment up to and including that year falls to be determined,

then years of assessment ending before the relevant date are to be brought into account as well as years of assessment ending after that date, and

- (II) a benefit received by an individual in the year of assessment 2007 is to be left out of account to the extent that, on a time apportionment basis, it fell to be enjoyed in any part of the year that falls before the relevant date.

Supplementary provisions in relation to section 806 — apportionment in certain cases.

807C.—(1) In this section—

‘appropriate exemption’ means an exemption by virtue of subsection (8)(b) or (10)(b)(ii) of section 806;

‘exempt year of assessment’ means a year of assessment referred to in subsection (2)(b) in respect of which there was no earlier year of assessment where—

- (a) the individual was liable to tax by virtue of section 806, or
- (b) the individual would have been liable to tax by virtue of section 806 if there had been any deemed income of such individual under that section;

‘relevant transactions’ has the meaning assigned to it by section 806(10).

(2) This section applies where an individual is liable to income tax by virtue of section 806 for a year of assessment and—

- (a) the individual is so liable by virtue of the conditions in section 806(10)(b)(ii) not being met,
- (b) since the making of the transfer there have been one or more years of assessment where the circumstances were such that, so far as relating to such of the relevant transactions as were effected before the end of the year of assessment concerned, the individual—
 - (i) was not liable to tax by virtue of section 806 because an appropriate exemption applied, or
 - (ii) would not have been liable to tax by virtue of section 806 if there had been any deemed income of such individual under that section because an appropriate exemption would have applied,

and

- (c) the income by reference to which the individual is so liable is attributable—
 - (i) partly to relevant transactions by reference to which the appropriate exemption applied for the last exempt year of assessment, and
 - (ii) partly to associated operations not falling within subparagraph (i) (in this section referred to as ‘chargeable operations’).

(3) Where this section applies, the liability of the individual shall be reduced as if it fell to be determined by reference to so much of the income as appears to the Revenue Commissioners, or such officer as the Revenue Commissioners may appoint, to be justly and reasonably attributable to chargeable operations in all the circumstances of the case.

(4) The facts and matters that may be taken into account in determining for the purposes of subsection (3) whether income may be regarded as justly and reasonably attributable to chargeable operations include whether, and to what extent, the

chargeable operations or any of them directly or indirectly affect—

- (a) the character, description or amount of any income of any person,
- (b) any person's power to enjoy any income, or
- (c) the character, description or amount of any income which a person has power to enjoy.”,
- (c) in section 807A(7), by substituting “Subsections (8), (9) and (10)” for “Subsections (8) and (9)”, and
- (d) in section 808, in subsections (2) and (3)(b), by substituting “sections 806, 807, 807A, 807B, 807C and 809” for “sections 806, 807, 807A and 809” in each place where it occurs.

(2) This section has effect as respects relevant transactions (within the meaning of section 806(10)(a) of the Principal Act) on or after 1 February 2007.

Amendment of section 234 (certain income derived from patent royalties) of Principal Act.

45.—(1) Section 234 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) by inserting the following before the definition of “income from a qualifying patent”:

“ ‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

‘EEA state’ means a state which is a Contracting Party to the EEA Agreement;”,
 - (ii) in the definition of “qualifying patent” by substituting “in an EEA state;” for “in the State;”,
- (b) by inserting the following after subsection (3):
- “(3A) (a) Notwithstanding subsection (2) but subject to paragraphs (b) to (d), so much of the aggregate of the amounts of any income from qualifying patents arising to a person in a relevant period which would, apart from this subsection, be disregarded under subsection (2) for the purposes of income tax or corporation tax as exceeds €5,000,000 shall not be so disregarded.

(b) Where—

- (i) in relation to a company, income from qualifying patents arising in a relevant period would, apart from this paragraph, be disregarded under subsection (2), and

- (ii) in relation to one or more persons who are connected (within the meaning of section 10) with the company referred to in subparagraph (i), income from qualifying patents arising in that relevant period would, apart from this paragraph, be disregarded under subsection (2),

then the aggregate of the amounts of income from qualifying patents, which is to be disregarded under subsection (2), arising to the company and all of those persons in the relevant period shall not be greater than €5,000,000.

- (c) Where the aggregate of the amounts of income from qualifying patents in a relevant period arising to a company and all of the persons referred to in paragraph (b) which would, apart from paragraph (b), be disregarded under subsection (2) exceeds €5,000,000, the amount of any income from qualifying patents which is to be so disregarded for the relevant period in relation to the company or any person referred to in paragraph (b) shall be—

- (i) so much of €5,000,000 as is allocated to the company or that person in the manner specified in a notice made jointly in writing to the appropriate inspector by the company and the connected persons on or before the time by which a return under section 951 is to be made for the latest chargeable period (within the meaning of section 321(2)) of—

(I) the company, or

(II) any of those persons,

which falls wholly or partly into the relevant period: but the aggregate of the amounts allocated to the company and all of the persons referred to in paragraph (b) in relation to the relevant period shall not exceed €5,000,000, and

- (ii) where no such notice is given, an amount determined by the formula—

$$€5,000,000 \times \frac{P}{T}$$

where—

P is the aggregate of the amounts of income from qualifying patents arising to the company, or as the case may be the person, in the relevant period, and

T is the aggregate of the amounts of income from qualifying patents arising to the company and all of the persons referred to in paragraph (b) in the relevant period.

- (d) For the purposes of this subsection, where a relevant period does not coincide with an accounting period of a company—
- (i) the amount of income from qualifying patents arising to the company in the relevant period shall be the aggregate of the amounts of income from qualifying patents arising to the company in any accounting period or part of an accounting period falling within the relevant period,
 - (ii) income from qualifying patents arising to a company in an accounting period shall be treated as arising in part of that accounting period on a time basis according to the respective lengths of the part and the whole of the accounting period, and
 - (iii) subject to the preceding provisions of this paragraph, income arising in a relevant period that is to be disregarded under subsection (2) shall be treated as representing income of an accounting period only to the extent that it cannot be treated as representing income of an earlier period, or part of such period.

(e) In this subsection—

‘income from qualifying patents’ means income from a qualifying patent or from more than one such patent;

‘relevant period’ means the period of 12 months commencing on 1 January 2008 and each subsequent period of 12 months.”.

- (2) (a) *Subsection (1)(a)* applies as respects income from a patent in relation to which the research, planning, processing, experimenting, testing, devising, designing, developing or similar activity leading to the invention which is the subject of the patent is carried out on or after 1 January 2008.
- (b) *Subsection (1)(b)* applies as respects a relevant period beginning on or after 1 January 2008.

CHAPTER 4

Corporation Tax

Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.

46.—(1) Section 766 of the Principal Act is amended in subsection (1)—

- (a) in paragraph (a), in paragraph (i) of the definition of “threshold amount” by substituting “1 January 2010” for “1 January 2007”, and

(b) in paragraph (b)—

(i) by substituting “activities;” for “activities.” in subparagraph (vii), and

(ii) by inserting the following after subparagraph (vii):

“(viii) where in any period a company—

(I) incurs expenditure on research and development, and

(II) pays a sum (not being a sum referred to in subparagraph (vii)(II)) to a person, other than a person who is connected (within the meaning of section 10) with the company, in order for that person to carry on research and development activities, and that person does not claim relief under this section in respect of such expenditure on research and development,

so much of the sum so paid as does not exceed 10 per cent of that expenditure incurred by the company on research and development shall be treated as if it were expenditure incurred by the company on the carrying on by it of research and development activities.”.

(2) (a) Subject to *paragraph (b)*, this section applies for accounting periods commencing on or after 1 January 2007.

(b) *Subsection (1)(b)* applies as respects accounting periods ending on or after 1 January 2007 in respect of expenditure incurred on or after 1 January 2007.

47.—(1) Section 958 of the Principal Act is amended—

Amendment of section 958 (date for payment of tax) of Principal Act.

(a) in subsection (1)(a) in the definition of “relevant limit” by substituting “€150,000” for “€50,000”,

(b) in subsection (2B) by inserting the following after paragraph (b):

“(c) Where in relation to a chargeable period which is an accounting period of a company—

(i) the tax payable by a chargeable person (being a company) for the chargeable period does not exceed the relevant limit, and

(ii) the chargeable period commenced on the company coming within the charge to corporation tax,

then the preliminary tax appropriate to the chargeable period shall be taken to be nil and subsections (4C) and (4E) shall not apply.”,

(c) in subsection (4C)—

- (i) by substituting “Subject to subsections (2B)(c), (4E) and (11)” for “Subject to subsection (4E)”, and
- (ii) in paragraph (b)(ii) by inserting “or is not a company with a preliminary tax liability of nil by virtue of subsection (2B)(c),” after “accounting period,”,

and

(d) by inserting the following after subsection (10):

“(11) (a) In this subsection—

‘balance’ means the amount represented by the formula $A - B$, where—

A is the amount of preliminary tax paid in accordance with subsection (2B) by the surrendering company for the relevant period, and

B is 90 per cent of the tax payable by the surrendering company for that relevant period;

‘relevant balance’ means that part of a balance that is specified in a notice given in accordance with paragraph (c).

(b) This subsection applies where—

- (i) a chargeable person being a company (in this subsection referred to as the ‘surrendering company’) which is a member of a group pays an amount of preliminary tax for a chargeable period (in this subsection referred to as the ‘relevant period’) in accordance with subsection (2B), being an amount which exceeds 90 per cent of the tax payable by that surrendering company for the relevant period,
- (ii) another chargeable person being a company (in this subsection referred to as the ‘claimant company’) which is a member of the group pays an amount of preliminary tax for a chargeable period in accordance with subsection (2B), being an amount which is less than 90 per cent of the tax payable by that claimant company for the chargeable period,
- (iii) the chargeable period referred to in subparagraph (ii) coincides with the relevant period, and

- (iv) the claimant company is not a small company in relation to the relevant period.
- (c) Where this subsection applies the 2 companies may, at any time on or before the specified return date for the chargeable period of the surrendering company, jointly give notice to the Collector-General in such form as the Revenue Commissioners may require that paragraph (d) is to have effect in relation to the relevant balance specified in the notice.
- (d) Where this paragraph has effect in relation to any relevant balance—
 - (i) an additional amount of preliminary tax equal to the relevant balance shall be deemed for the purposes of subsection (4C)(b)(ii) to have been paid by the claimant company on the due date for the payment of preliminary tax of that company for the relevant period if 100 per cent of the tax payable by the claimant company for the relevant period, disregarding this subparagraph, is paid on or before the specified return date for the relevant period, and
 - (ii) the surrendering company shall for the purposes of this subsection be treated as having surrendered the relevant balance to the claimant company and that relevant balance shall not be available for use by any other company under this subsection.
- (e) A payment for a relevant balance shall not—
 - (i) be taken into account in computing profits or losses of either company for corporation tax purposes, and
 - (ii) be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts,and, in this paragraph, ‘payment for a relevant balance’ means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered in accordance with this subsection, being a payment not exceeding that amount.
- (f) (i) This subsection shall not affect the liability to pay corporation tax of any company to which the subsection relates.
 - (ii) Where this subsection applies, the amount on which, but for this subsection, the claimant company is liable to pay interest in accordance with section 1080 shall be reduced by any relevant balance deemed

to have been paid by that company in accordance with paragraph (d)(i).

(g) For the purposes of this subsection, 2 companies are members of the same group if and only if they would be such members for the purposes of section 411.”.

(2) (a) Paragraphs (a), (b) and (c) have effect as respects accounting periods in respect of which preliminary tax is payable after 6 December 2006.

(b) Paragraph (d) has effect for accounting periods ending on or after 1 February 2007.

Group relief for certain foreign losses.

48.—(1) Chapter 5 of Part 12 of the Principal Act is amended—

(a) in section 411—

(i) by substituting the following for subsection (2):

“(2) Subject to subsection (2A), relief for—

(a) trading losses and other amounts eligible for relief from corporation tax, and

(b) trading losses incurred by non-resident companies and other amounts not otherwise eligible for relief from corporation tax,

may in accordance with this Chapter be surrendered by a company (in this Chapter referred to as the ‘surrendering company’) which is a member of a group of companies and, on the making of a claim by another company (in this Chapter referred to as the ‘claimant company’) which is a member of the same group, may be allowed to the claimant company by means of a relief from corporation tax (in this Chapter referred to as ‘group relief’).”,

and

(ii) by inserting the following after subsection (2):

“(2A) Where the trading losses or other amounts are of the type referred to in paragraph (b) of subsection (2), group relief shall only be available in accordance with this Chapter where—

(a) the surrendering company is—

(i) resident in a relevant Member State, other than the State, and

(ii) a 75 per cent subsidiary of the claimant company,

and

(b) the claimant company is resident in the State.”,

and

(b) by inserting the following after section 420B:

“Group relief: relief for certain losses of non-resident companies. 420C.—(1) In this section—
‘foreign loss’ means a loss or other amount eligible for group relief in accordance with section 411(2A);

‘relevant foreign loss’ means the amount of a foreign loss that—

- (a) corresponds to an amount of a kind that, for the purposes of section 420 or 420A, could be available for surrender by means of group relief by a company resident in the State,
- (b) is calculated in accordance with the applicable rules under the law of the surrendering state for determining the amount of loss or other amount eligible for relief from tax in that state,
- (c) is not attributable to a trade carried on in the State through a branch or agency,
- (d) is not otherwise available for surrender, relief or offset in accordance with any provisions of the Tax Acts,
- (e) is a trapped loss within the meaning of subsection (2), and
- (f) is not available for surrender, relief or offset under the law of any relevant Member State, other than the State or the surrendering state;

‘surrendering state’ means the relevant Member State in which the surrendering company referred to in section 411(2A) is resident for the purposes of tax.

(2) For the purposes of this section a ‘trapped loss’, in relation to an accounting period of a company, means a foreign loss that under the law of the surrendering state cannot be (or, if a timely claim for such set off or relief had been made, could not have been) set off or otherwise relieved for the purposes of tax against profits (of whatever description) of—

- (a) that accounting period of the company,

- (b) any preceding accounting period of the company,
- (c) any later accounting period of the company, and
- (d) any period of any other company resident in the surrendering state.

(3) (a) Subject to subsection (4), where in any accounting period the surrendering company has incurred a relevant foreign loss, then the amount of the loss shall be treated (with any necessary modifications) for the purposes of sections 420A and 420B as a relevant trading loss incurred by the surrendering company in the accounting period.

- (b) Relief for a relevant foreign loss shall be given after relief for any losses (including relief for losses under section 397) which are not relevant foreign losses.

(4) This section does not apply where the relevant foreign loss arose as the result of any arrangements whatsoever the main purpose, or one of the main purposes, of which was to secure that the loss would qualify for group relief.

(5) Subject to subsection (6), a claim under subsection (3) shall be made within 2 years from the end of the accounting period in which the loss is incurred.

(6) Where—

- (a) at any time relief under subsection (3) may not be given in respect of a loss by virtue only of paragraph (c) of subsection (2), and
- (b) at any later time the claimant company proves to the satisfaction of the Revenue Commissioners that the condition in subsection (2)(c) is satisfied in relation to the loss at that time,

the claimant company may make a claim for relief under subsection (3) in respect of the loss and any such claim shall be made within 2 years from the time at which the condition in subsection (2)(c) is first met.

(7) For the purpose of giving effect to this section ‘accounting period’, in relation

to a surrendering company, means a period which would be an accounting period of the company if the company became resident in the State, and accordingly within the charge to corporation tax, at the time when it became a 75 per cent subsidiary referred to in section 411(2A)(a)(ii).

(8) The inspector may by notice in writing require a company claiming relief from tax by virtue of this section to furnish him or her with such information or particulars as may be necessary for the purpose of giving effect to this section.”.

- (2) (a) Subject to *paragraph (b), subsection (1)* is deemed to have applied as respects an accounting period ending on or after 1 January 2006.
- (b) For the purposes of this subsection, where an accounting period of a company begins before 1 January 2006 and ends on or after that date, it shall be divided into two parts, one beginning on the date on which the accounting period begins and ending on 31 December 2005 and the other beginning on 1 January 2006 and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.

49.—(1) Section 79B of the Principal Act is amended—

(a) in subsection (1)(a)—

(i) in the definition of “foreign currency asset” by substituting “functional currency of the company” for “currency of the State”,

(ii) by inserting the following after the definition of “foreign currency asset”:

“ ‘functional currency’ has the same meaning as in section 402;”,

and

(iii) in the definition of “relevant foreign currency liability” by substituting “functional currency of the company” for “currency of the State”,

(b) in subsection (2) by substituting “functional currency of the company” for “currency of the State”, and

(c) in subsection (3)—

(i) by substituting “Where, in relation to an accounting period of a company, a foreign currency asset” for “Where in an accounting period a company disposes of a foreign currency asset which”, and

(ii) by inserting “for that accounting period” after “income of the company”.

Amendment of section 79B (matching of foreign currency assets with certain foreign currency share capital) of Principal Act.

(2) This section is deemed to have applied as on and from 1 January 2006.

Amendment of section 452 (application of section 130 to certain interest) of Principal Act.

50.—(1) Section 452 of the Principal Act is amended—

(a) by inserting the following after subsection (3):

“(3A) (a) This paragraph shall apply to so much of any yearly interest as—

(i) is a distribution by virtue only of section 130(2)(d)(iv),

(ii) is payable by a company in the ordinary course of a trade carried on by that company and would, but for section 130(2)(d)(iv), be deductible as a trading expense in computing the amount of the company’s income from the trade, and

(iii) is not interest to which subsection (2)(a) applies.

(b) Where a company proves that paragraph (a) applies to any interest payable by it for an accounting period and elects to have that interest treated as not being a distribution for the purposes of section 130(2)(d)(iv), then section 130(2)(d)(iv) shall not apply to that interest.”,

and

(b) in subsection (4), by substituting “subsection (2)(b), (3)(b) or (3A)(b)” for “subsection (2)(b) or (3)(b)”.

(2) This section applies as respects interest paid on or after 1 February 2007.

Amendment of section 486B (relief for investment in renewable energy generation) of Principal Act.

51.—(1) Section 486B of the Principal Act is amended in subsection (1) by substituting “31 December 2011” for “31 December 2006” in the definition of “qualifying period”.

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

CHAPTER 5

Capital Gains Tax

Amendment of Chapter 6 (transfers of business assets) of Part 19 of Principal Act.

52.—(1) The Principal Act is amended in Chapter 6 of Part 19—

(a) in section 598—

(i) in subsection (1)(a), in the definition of “qualifying assets”—

(I) in paragraph (iii) by deleting “and” and in paragraph (iv)(II) by deleting “section 652(5)(a);” and substituting “section 652(5)(a), and”, and

(II) by inserting the following after paragraph (iv):

“(v) land which has been let by the individual at any time in the period of 15 years ending with the disposal where—

(I) immediately before the time the land was first let in that period of 15 years, the land was owned by the individual and used for the purposes of farming carried on by the individual for a period of not less than 10 years ending at that time, and

(II) the disposal is to a child (within the meaning of section 599) of the individual;”,

and

(ii) in subsection (2)(a) by substituting “€750,000” for “€500,000” in each place where it occurs,

and

(b) in section 599—

(i) by substituting the following for subsection (1)(a):

“(1) (a) In this section ‘child’, in relation to a disposal for which relief is claimed under this section, includes—

(i) a child of a deceased child,

(ii) a nephew or a niece who has worked substantially on a full-time basis, for the period of 5 years ending with the disposal, in carrying on, or assisting in the carrying on of, the trade, business or profession concerned or the work of, or connected with, the office or employment concerned, and

(iii) an individual (in this paragraph referred to as ‘the first-mentioned individual’) who resided with, was under the care of and was maintained at the expense of the individual making the disposal throughout—

(I) a period of 5 years, or

(II) periods which together comprised at least 5 years,

before the first-mentioned individual attained the age of 18 years but only if such claim is not based on the

uncorroborated testimony of one witness.”,

and

(ii) by inserting the following after subsection (1)(c):

“(d) Where the qualifying asset is land used for the purposes of farming and the consideration for its disposal consists in whole or in part of other such land, a gain shall not be treated as arising on the disposal of that other land by the child concerned but that other land shall be treated for the purposes of the Capital Gains Tax Acts as having been acquired by the individual at the same time and for the same value and used by the individual for the same purposes as it was originally acquired and used by the child concerned.”.

(2) (a) Subject to *paragraph (b)*, *subsection (1)* applies as respects disposals made on or after the date of the passing of this Act.

(b) *Paragraph (a)(ii)* of *subsection (1)* applies as respects disposals made on or after 1 January 2007.

Amendment of section 603A (disposal of site to child) of Principal Act.

53.—(1) Section 603A of the Principal Act is amended by substituting the following for subsection (1A):

“(1A) This section applies to the disposal of land which at the date of the disposal—

(a) has a market value that does not exceed €254,000, and

(b) comprises—

(i) the area of land on which a dwelling house referred to in subsection (2)(b) is to be constructed, and

(ii) an area of land for occupation and enjoyment with that dwelling house as its garden or grounds which, exclusive of the area referred to in subparagraph (i), does not exceed 0.4047 hectare.”.

(2) This section applies to disposals made on or after 1 February 2007.

Amendment of Schedule 15 (list of bodies for purposes of section 610) to Principal Act.

54.—(1) Part 1 of Schedule 15 to the Principal Act is amended in paragraphs 3, 37 and 38 by deleting “gain” and substituting “gain or, if greater, the consideration for the disposal under the Capital Gains Tax Acts”.

(2) This section applies to disposals made on or after 1 February 2007.

55.—(1) Section 746 of the Principal Act is amended—

- (a) in subsection (5) by substituting “resident or ordinarily resident” for “ordinarily resident”, and
- (b) in subsections (5) and (6) by substituting “sections 806, 807, 807A, 807B and 807C” for “sections 806, 807 and 807A” in each place where it occurs.

Amendment of section 746 (offshore income gains accruing to persons resident or domiciled abroad) of Principal Act.

(2) This section applies as on and from 1 February 2007.

56.—(1) Section 980 of the Principal Act is amended—

- (a) by substituting the following for subsection (5):

“(5) Where any payment referred to in subsection (4)(a) is made by or on behalf of any person, that person shall, within 30 days of the date of the payment, deliver to the Revenue Commissioners an account of the payment and of the amount deducted from the payment, and pay to the Collector-General an amount of capital gains tax equal to 15 per cent of the amount of the payment.

Amendment of section 980 (deduction from consideration on disposal of certain assets) of Principal Act.

(5A) Capital gains tax which by virtue of subsection (5) is payable by a person who makes a payment shall—

- (a) be payable by that person in addition to any capital gains tax which by virtue of any other provision of the Capital Gains Tax Acts is payable by that person,
- (b) be due within 30 days of the time when the payment is made, and
- (c) be payable by that person without the making of an assessment,

but tax which has become so due may be assessed on the person making the payment (whether or not the tax has been paid when the assessment is made) if that tax or any part of that tax is not paid on or before the due date.”,

- (b) by substituting the following for subsection (7):

“(7) Where the amount of capital gains tax which, by virtue of subsection (5A), a person has become liable to pay to the Collector-General, has been so paid, appropriate relief shall, on a claim being made in that behalf, be given to the person chargeable in respect of the gain on the disposal, whether by discharge, repayment or otherwise.”,

and

- (c) by deleting subsection (10).

(2) This section applies to disposals made on or after the date of the passing of this Act.

PART 2

EXCISE

Amendment of section 144 (power to deal with seizures, before and after condemnation) of Finance Act 2001.

57.—Section 144 of the Finance Act 2001 is amended by substituting the following for subsection 3(b):

“(b) if the thing seized is in the opinion of the Commissioners of a perishable or hazardous nature or is tobacco products, sell or destroy it.”.

Miscellaneous excise repeals.

58.—With effect from 1 July 2007 or such earlier date as the Minister for Finance may by order appoint, the Liqueur Act 1848 and the Bonded Warehouses Act 1848 are repealed.

Rates of mineral oil tax.

59.—The Finance Act 1999 is amended—

(a) by substituting the following for Schedule 2 to that Act, as amended by section 79(a) of the Finance Act 2006:

“SCHEDULE 2

RATES OF MINERAL OIL TAX
(With effect as on and from 1 January 2007)

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Leaded petrol	€553.04 per 1,000 litres
Unleaded petrol	€442.68 per 1,000 litres
Super unleaded petrol	€547.79 per 1,000 litres
Aviation gasoline	€276.52 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant with a maximum sulphur content of 50 milligrammes per kilogramme	€368.05 per 1,000 litres
Other heavy oil used as a propellant	€420.44 per 1,000 litres
Kerosene used other than as a propellant	€00.00
Fuel oil	€14.78 per 1,000 litres
Other heavy oil	€47.36 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€63.59 per 1,000 litres
Other liquefied petroleum gas	€00.00
<i>Coal:</i>	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

”

and

- (b) with effect as on and from such day as the Minister may appoint by order, by substituting the following for Schedule 2 (inserted by *paragraph (a)*) to that Act:

“SCHEDULE 2

RATES OF MINERAL OIL TAX

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Leaded petrol	€553.04 per 1,000 litres
Unleaded petrol with a maximum sulphur content of 10 milligrammes per kilogramme	€442.68 per 1,000 litres
Other unleaded petrol	€484.00 per 1,000 litres
Super unleaded petrol	€547.79 per 1,000 litres
Aviation gasoline	€276.52 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant with a maximum sulphur content of 10 milligrammes per kilogramme	€368.05 per 1,000 litres
Other heavy oil used as a propellant	€420.44 per 1,000 litres
Kerosene used other than as a propellant	€00.00
Fuel oil	€14.78 per 1,000 litres
Other heavy oil	€47.36 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€63.59 per 1,000 litres
Other liquefied petroleum gas	€00.00
<i>Coal:</i>	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

”.

60.—Chapter 1 of Part 2 of the Finance Act 1999 is amended— Mineral oil tax rates for substitute fuels.

- (a) in section 94(1) by substituting the following for the definition of “substitute fuel”:

“ ‘substitute fuel’ means any product in liquid form, other than a mineral oil of a description for which a rate is specified in Schedule 2, that is used, intended for use, or suitable for use as motor or heating fuel, and includes biofuel but does not include additives;”.

(b) in section 96 by inserting the following after subsection (2):

- “(2A) (a) Any substitute fuel that is used, intended for use, or suitable for use, as a propellant for a motor vehicle for which unleaded petrol can also be used as a propellant, shall be liable to tax at the rate specified in Schedule 2 for unleaded petrol.
- (b) Any substitute fuel, other than a substitute fuel to which paragraph (a) applies, that is used, intended for use, or suitable for use, as a propellant, shall be liable to tax at the rate specified in Schedule 2 for heavy oil used as a propellant with a maximum sulphur content as provided for in that Schedule.
- (c) Any substitute fuel to which paragraphs (a) or (b) do not apply, shall be liable to tax at the rate specified in Schedule 2 for other heavy oil.
- (d) Without prejudice to paragraphs (a), (b) and (c), where it is shown to the satisfaction of the Commissioners that any quantity of substitute fuel, though suitable for use as a propellant, has been used or is intended for use for other purposes, the Commissioners shall remit or repay (as the case may be) the mineral oil tax chargeable on such quantity under paragraphs (a) or (b), less the amount that would be charged on the same quantity under paragraph (c).”.

Mineral oil tax offences.

61.—(1) Chapter 1 of Part 2 of the Finance Act 1999 is amended—

(a) in section 102—

(i) in subsection (1) by substituting the following for paragraph (b):

“(b) to use as a propellant or to keep in a fuel tank—

- (i) any mineral oil on which mineral oil tax at the appropriate standard rate has not been paid,
- (ii) any mineral oil containing one or more of the markers prescribed by regulations made under section 104, or
- (iii) any substance where the importation of mineral oil containing such substance is prohibited by regulations made under section 104,”.

(ii) in subsection (1) by inserting the following after paragraph (d):

“(da) to contravene or fail to comply with a temporary prohibition of trade order under section 102A, or”,

(iii) by inserting the following after subsection (1):

“(1A) It shall be an offence under this subsection—

- (a) to invite an offer to treat for, offer for sale, keep for sale, or to sell, or
- (b) to deliver, keep for delivery, or to be in the process of delivering, or to keep,

for use as a propellant—

- (i) any mineral oil on which mineral oil tax at the appropriate standard rate has not been paid,
 - (ii) any mineral oil containing one or more of the markers prescribed by regulations made under section 104, or
 - (iii) any substance where the importation of a mineral oil containing such substance is prohibited by regulations made under section 104.”,
- (iv) in subsection (4) by substituting “subsection (1A) or (3)” for “subsection (3)”,
- (v) in subsection (5) by substituting “subsection (1), (1A) or (3)” for “subsection (1) or (3)”,

(b) by inserting the following after section 102:

“Consequential provisions relating to offences.

102A.—(1) Where a person licensed under section 101 is convicted of an offence under subsection (1A) or (3)(b) of section 102 of this Act, or an offence in relation to mineral oils under section 119 of the Finance Act 2001, then the Court shall, in addition to any other penalty imposed, make an order, referred to in this section as a temporary prohibition of trade order, prohibiting the sale or supply of any mineral oil from any premises licensed in respect of such person under section 101 and concerned in the offence, for a period of—

- (a) not less than one day and not more than 7 days for a first offence by such person,
- (b) not less than 7 days and not more than 30 days for a second or subsequent offence by such person,

and the Court may also by such order prohibit the sale or supply of any mineral oil from any other premises so licensed in respect of such person.

(2) In determining the duration of a temporary prohibition of trade order the Court may seek, from an officer involved in the investigation of the offence, a report on the circumstances in which it was committed and any other information which the Court may consider to be relevant.

(3) Where a person is convicted of more than one offence to which subsection (1) applies, and all the offences were committed on the same occasion, then only one temporary prohibition of trade order may be made in respect of such offences.

(4) The prohibition period specified in a temporary prohibition of trade order shall commence—

- (a) where no appeal is made against the conviction or the prohibition period, on the 30th day after the order is made, or
- (b) where such an appeal is made, and the conviction or prohibition period is affirmed, on the 30th day after such affirmation,

and it shall end on the expiry of the period specified in the order, unless such period has been varied on appeal, in which case it shall end on the expiry of the period so varied.

(5) (a) If, on appeal, a conviction resulting in a temporary prohibition of trade order is reversed, such order shall thereupon cease to have effect.

(b) On any appeal—

- (i) against a conviction resulting in a temporary prohibition of trade order, or
- (ii) relating to the period specified in such order,

the Court may vary the period specified in such order.

(6) A temporary prohibition of trade order in respect of any premises shall, for the purposes of this Chapter and any regulations made under section 104, have effect

as if that premises were not licensed under section 101 for the period specified in such order.

(7) During the period specified in a temporary prohibition of trade order, the person in respect of whom the premises is licensed under section 101 shall ensure that a prominent notice, stating that the closure is in compliance with the order and specifying the period of prohibition of trade, is affixed to the exterior of the premises in a conspicuous place.

(8) Where a person is convicted of—

(a) an offence under section 102(1)(da), or

(b) a third or subsequent offence to which subsection (1) applies,

the Court shall revoke any licence granted to such person under section 101, and no such licence may at any future time be granted to such person.”,

and

(c) in section 103 by substituting the following for subsection (4):

“(4) Where, in any proceedings for an offence under subsection (1)(b)(i) or (1A)(i) of section 102, it is proved that the mineral oil that is the subject of the offence is heavy oil other than fuel oil or kerosene, with a sulphur content exceeding 50 milligrammes per kilogramme, then it shall be presumed, until the contrary is proved, that mineral oil tax at the appropriate standard rate has not been paid on such mineral oil.”.

(2) This section only applies to offences committed on a date subsequent to the passing of the *Finance Act 2007*.

62.—The Finance Act 2005 is amended by substituting the following for Schedule 2 to that Act:

Rates of tobacco products tax.

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

Description of Product	Rate of Tax
Cigarettes	€151.37 per thousand together with an amount equal to 17.78 per cent of the price at which the cigarettes are sold by retail
Cigars.....	€217.388 per kilogram
Fine-cut tobacco for the rolling of cigarettes	€183.443 per kilogram
Other smoking tobacco.....	€150.815 per kilogram

”.

Amendment of section 130 (interpretation) of Finance Act 1992.

63.—Section 130 of the Finance Act 1992 is amended by substituting the following for the definition of “mechanically propelled vehicle” (amended by section 79 of Finance Act 1998):

“ ‘mechanically propelled vehicle’ means a vehicle that—

- (a) has been designed and constructed for road use,
- (b) is, at the time of declaration for registration, in compliance with any measures taken to give effect in the State to any act of the European Communities relating to the approximation of the laws of Member States in respect of type-approval for the type of vehicle concerned,
- (c) is intended or adapted for propulsion by a mechanical means, or by an electrical means or by a partly mechanical and a partly electrical means, and
- (d) is capable of achieving vehicle propulsion at the time of registration, to the satisfaction of the Commissioners,

including a bicycle, tricycle or quadricycle propelled by an engine or motor or with an attachment for propelling it by mechanical power, whether or not the attachment is being used, a moped, a scooter and an autocytle, but not including a tramcar or other vehicle running on permanent rails or a vehicle including a cycle with an attachment for propelling it by mechanical power not exceeding 400 kilogrammes in weight unladen adapted and used for invalids;”.

Amendment of section 135 (temporary exemption from registration) of Finance Act 1992.

64.—Section 135 of the Finance Act 1992 is amended by substituting the following for paragraph (aa):

“(aa) brought into the State by an individual established in the State for such individual’s private or business use where such individual—

- (i) is employed by an employer established in another Member State who provides a vehicle as part of their contract of employment, where such vehicle is owned or leased by the employer, or
- (ii) is self-employed and has established a legally accountable undertaking in another Member State, whose business is carried on solely or principally in another Member State,

and where the vehicle is a category A vehicle or a motor-cycle, it is used principally for business use in another Member State.”.

65.—Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135C (substituted by section 88 of Finance Act 2006):

Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles, or certain flexible fuel vehicles, or certain electric vehicles.

“135C.—(1) In this section—

‘hybrid electric vehicle’ means a vehicle that derives its motive power from a combination of an electric motor and an internal combustion engine and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle;

‘flexible fuel vehicle’ means a vehicle that derives its motive power from an internal combustion engine that is capable of using a blend of ethanol and petrol, where such blend contains a minimum of 85 per cent ethanol;

‘electric vehicle’ means a vehicle that derives its motive power exclusively from an electric motor.

(2) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2007 to 31 December 2007 and the Commissioners are satisfied that the vehicle is—

- (a) a series production hybrid electric vehicle, or
- (b) a series production flexible fuel vehicle, or
- (c) a series production electric vehicle,

then the Commissioners may remit or repay to that person 50 per cent of the vehicle registration tax payable or paid in accordance with paragraphs (a), (aa), (b) or (c) of section 132(3).”.

66.—Section 21 (inserted by section 85 of the Finance Act 1998) of the Betting Act 1931 is amended by the substitution of the following for subsection (1):

Amendment of section 21 (hours of business in registered premises) of Betting Act 1931.

“(1) In this section ‘race-meeting’ and ‘authorised race-course’ have the same meanings, respectively, as in section 2(1) of the Irish Horseracing Industry Act 1994.

(1A) Registered premises shall not be opened or kept open for the transaction of business at any time on any Christmas Day, Good Friday or Easter Sunday or on any other day—

- (a) at any time before 7 o’clock in the morning and after 6.30 o’clock in the evening during the period from 1 September in any year to 31 March in the following year, and
- (b) at any time before 7 o’clock in the morning and after 10 o’clock in the evening—
 - (i) during the period from 1 April in any year to 31 August in that year, and
 - (ii) during the period from 1 September in any year to 31 March in the following year on any day on

which a race-meeting at an authorised race-course is taking place on or after 6.30 o'clock in the evening on that day.”.

Excise duty on registration of firearms dealers.

67.—(1) In this section “register of firearms dealers” means the register to be established and kept under section 9 of the Firearms Act 1925.

(2) The duty of excise imposed by section 41(1) of the Finance Act 1925 on the registration of a person in the register of firearms dealers shall be charged, levied and paid at the rate of €340 in lieu of the rate specified in section 159(1) of the Finance Act 1992.

(3) The duty of excise imposed by section 41(3) (inserted by section 52(c) of the Finance Act 1971) of the Finance Act 1925 on the registration of a person in the register of firearms dealers shall be charged, levied and paid at the rate of €55 in lieu of the rate specified in section 159(2) of the Finance Act 1992.

(4) This section comes into effect on 31 December 2007.

Excise duty on firearm certificate.

68.—(1) In this section—

“firearm certificate” means a firearm certificate within the meaning of section 1(1) (inserted by section 26 of the Criminal Justice Act 2006) of the Firearms Act 1925 and to which section 3 (inserted by section 30 of the Criminal Justice Act 2006) of the Firearms Act 1925 applies and a reference to “firearm” shall be read accordingly;

“limited certificate” has the same meaning as in section 3(11) (inserted by section 30 of the Criminal Justice Act 2006) of the Firearms Act 1925.

(2) In respect of every firearm certificate that is granted or renewed on or after 31 December 2007—

(a) an excise duty at the rates specified in the *second column* of the Table to this section shall be charged, levied and paid on every firearm certificate of a description set out in the *first column* of the Table opposite the rate set out in the *second column*, and

(b) subsections (2) and (3) of section 18 of the Finance Act 1964 shall not have effect.

TABLE

Description of Firearm Certificate	Rate of Duty
Certificate for pistol, revolver or rifle	€170
Limited certificate for a shot-gun	€30
Where 2 or more limited certificates for shot-guns are granted to the same person and expire at the same time:	
First certificate	€30
Second and each subsequent certificate	€30
Certificate for a shot-gun other than limited certificate	€115

Description of Firearm Certificate	Rate of Duty
Where 2 or more certificates for shot-guns other than limited certificates are granted to the same person and expire at the same time:	
First certificate	€115
Second and each subsequent certificate	€30
Certificate for crossbow	€115
Where 2 or more certificates for crossbows are granted to the same person and expire at the same time:	
First certificate	€115
Second and each subsequent certificate	€30
Certificate for prohibited weapon	€30

69.—(1) In this section—

“firearm certificate” means a firearm certificate to which section 2 of the Firearms (Firearm Certificates for Non-Residents) Act 2000 applies and a reference to “firearm” shall be read accordingly;

“limited certificate” has the same meaning as in section 3(11) (inserted by section 30 of the Criminal Justice Act 2006) of the Firearms Act 1925.

(2) In respect of every firearm certificate that is granted on or after 31 December 2007—

- (a) an excise duty at the rates specified in the *second column* of the Table to this section shall be charged, levied and paid on every firearm certificate of a description set out in the *first column* of the Table opposite the rate set out in the *second column*, and
- (b) subsections (2) and (3) of section 18 of the Finance Act 1964 shall not have effect.

Excise duty on firearm certificate for non-resident.

TABLE

Description of Firearm Certificate	Rate of Duty
Certificate for pistol, revolver or rifle	€57
Limited certificate for a shot-gun	€10
Where 2 or more limited certificates for shot-guns are granted to the same person and expire at the same time:	
First certificate	€10
Second and each subsequent certificate	€10
Certificate for a shot-gun other than limited certificate	€38
Where 2 or more certificates for shot-guns other than limited certificates are granted to the same person and expire at the same time:	
First certificate	€38
Second and each subsequent certificate	€10

Description of Firearm Certificate	Rate of Duty
Certificate for crossbow	€38
Where 2 or more certificates for crossbows are granted to the same person and expire at the same time:	
First certificate	€38
Second and each subsequent certificate	€10
Certificate for prohibited weapon	€10

Excise duty on authorisation of rifle or pistol club or shooting range.

70.—(1) In this section “authorisation of rifle or pistol club or shooting range” means an authorisation under section 4A (inserted by section 33 of the Criminal Justice Act 2006) of the Firearms Act 1925.

(2) An excise duty of €1,000 shall be charged, levied and paid on every authorisation of rifle or pistol club or shooting range that is granted or renewed on or after 31 December 2007.

Excise duty on firearms training certificate.

71.—(1) In this section “firearms training certificate” has the same meaning as in section 2A (inserted by section 28 of the Criminal Justice Act 2006) of the Firearms Act 1925.

(2) In respect of every firearms training certificate that is issued on or after 31 December 2007 an excise duty at the rates specified in the *second column* of the Table to this section shall be charged, levied and paid on every firearms training certificate of a description set out in the *first column* of the Table opposite the rate set out in the *second column*.

TABLE

Description of Firearms Training Certificate	Rate of Duty
Certificate for a shot-gun	€115
Certificate for pistol, revolver or rifle	€170

Excise duty on licence for reloading of ammunition.

72.—(1) In this section “licence for reloading of ammunition” means a licence under section 10A (inserted by section 40 of the Criminal Justice Act 2006) of the Firearms Act 1925.

(2) An excise duty of €90 shall be charged, levied and paid on every licence for reloading of ammunition that is granted or renewed on or after 31 December 2007.

Excise duty on authorisation to possess, use, carry, sell or expose for sale a restricted firearm.

73.—(1) In this section “authorisation to possess, use, carry, sell or expose for sale a restricted firearm” means an authorisation under section 10 of the Firearms Act 1925 and to which subsections (4A) to (4G) (inserted by section 39 of the Criminal Justice Act 2006) of the Firearms Act 1925 relate.

(2) An excise duty of €405 shall be charged, levied and paid on every authorisation to possess, use, carry, sell or expose for sale a restricted firearm that is granted or renewed on or after 31 December 2007.

74.—The Finance Act 2001 is amended by inserting the following new section after section 139:

Excise: designation of secure premises for keeping of detained or seized goods.

“139A.—Any thing detained or seized under the law relating to excise may, in addition to being duly kept by an officer, also be kept in any secure premises or place designated by the Commissioners for such purpose, and the Commissioners may designate a premises or place under the control of a person contracted to them for such purpose.”.

PART 3

VALUE-ADDED TAX

75.—In this Part and in *Schedule 3* “Principal Act” means the Value-Added Tax Act 1972.

Interpretation (*Part 3*).

76.—Section 3 of the Principal Act is amended with effect from 1 May 2007—

Amendment of section 3 (supply of goods) of Principal Act.

(a) in subsection (1)(a) by substituting “including” for “other than”,

(b) in subsection (5)—

(i) by inserting in paragraph (a) “by the person supplying financial services of the kind specified in subparagraph (i)(e) of the First Schedule as part of that contract” after “referred to in subsection (1)(b)”, and

(ii) in paragraph (c)—

(I) by deleting in subparagraph (i) “being goods which are of such a kind or were used in such circumstances that no part of the tax, if any, chargeable on that supply of those goods was deductible by the person to whom that supply was made,” and

(II) by substituting “shall be deemed for the purposes of this Act to be a supply of goods to which paragraph (xxiv) of the First Schedule does not apply” for “shall be deemed for the purposes of this Act not to be a supply of goods”.

77.—(1) Section 5 of the Principal Act is amended in subsection (6)—

Amendment of section 5 (supply of services) of Principal Act.

(a) by deleting paragraph (e)(iv), and

(b) with effect from 1 January 2008—

(i) by substituting the word “intermediary” for “agent” in paragraph (f)(iii) and in subparagraphs (i)(II) and (ii) of paragraph (g), and

(ii) by inserting the following paragraph after paragraph (g):

“(gg) Subject to paragraph (f)(iii), the place of supply of services of an intermediary acting in the name and on behalf of another person, other than in cases where that intermediary takes part in the intra-Community transport of goods or in activities ancillary to the intra-Community transport of goods, is the place where the underlying transaction is supplied in accordance with this Act.”.

(2) *Subsection (1)(a)* comes into operation on such day as the Minister for Finance may by order appoint.

Amendment of section 7 (waiver of exemption) of Principal Act.

78.—Section 7 of the Principal Act is amended by inserting the following after subsection (1):

“(1A) (a) Notwithstanding subsection (1)(a), a person shall not waive his or her right to exemption from tax on or after the date of passing of the *Finance Act 2007* in respect of a letting of immovable goods to which paragraph (iv) of the First Schedule relates which is a letting of all or part of a house, apartment or other similar establishment, to the extent that those immovable goods are used or to be used for residential purposes, including any such letting—

- (i) governed by the Residential Tenancies Act 2004,
- (ii) governed by the Housing (Rent Books) Regulations 1993 (S.I. No. 146 of 1993),
- (iii) governed by section 10 of the Housing Act 1988,
- (iv) of a dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies, or
- (v) of accommodation which is provided as a temporary dwelling for emergency residential purposes,

and any waiver of exemption from tax which applies under this section shall not extend to such a letting of immovable goods where those goods are acquired or developed on or after the date of passing of the *Finance Act 2007*.

(b) For the purpose of applying paragraph (a), immovable goods are considered to be acquired when a person enters into a binding contract in writing for the acquisition of those goods or of an interest in those goods, or for the construction of those goods, and are considered to be developed when an application for planning permission in respect of the development of those goods as a house, apartment or other similar establishment is received by a planning authority.”.

Amendment of section 8 (taxable persons) of Principal Act.

79.—Section 8 of the Principal Act is amended—

(a) with effect from 1 March 2007—

- (i) in subsections (3), (3A) and (9), by substituting “€35,000” for “€27,500” in each place it occurs, and
- (ii) in subsection (3) by substituting “€70,000” for “€55,000” in each place it occurs,

and

(b) in subsection (8)—

(i) in paragraph (a)—

- (I) by substituting “, established in the State and engaged in the supply of goods or services in the course or furtherance of business,” for “established in the State”,
- (II) by substituting “for the purpose of this Act, the said Commissioners may, whether following an application on behalf of those persons or otherwise” for “subject to such conditions as they may impose by regulations, the said Commissioners, for the purposes of this Act, may”,
- (III) by substituting the following subparagraph for subparagraph (i):

“(i) by notice in writing to each of those persons deem them to be a single taxable person, referred to in this section as a ‘group’ and the persons so notified shall then be regarded as being in the group for as long as this paragraph applies to them, but the provisions of section 9 shall apply in respect of each of the members of the group, and—

(I) one of those persons, who shall be notified accordingly by the Commissioners, shall be responsible for complying with the provisions of this Act in respect of the group, and

(II) all rights and obligations arising under this Act in respect of the transactions of the group shall be determined accordingly, and”,

and

(IV) in subparagraph (ii) by substituting “make each person in the group” for “make each such person”,

(ii) by deleting paragraph (c), and

(iii) by inserting the following after paragraph (d):

“(e) The Revenue Commissioners may make regulations as seem to them to be necessary for the purposes of this subsection.”.

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

80.—Section 10 of the Principal Act is amended:

(a) in subsection (3)—

(i) by deleting paragraph (a), and

(ii) in paragraph (c) by substituting “subsection (3A)” for “paragraph (a)”,

(b) by inserting the following subsection after subsection (3):

“(3A) (a) The Revenue Commissioners may, where they consider it necessary or appropriate to do so to ensure the correct collection of the tax, make a determination that the amount on which tax is chargeable on a supply of goods or services is the open market value of that supply, if they are satisfied that the actual consideration in relation to that supply is—

(i) lower than the open market value of that supply where the recipient of that supply has no entitlement to deduct tax under section 12, or is not entitled to deduct all of the tax chargeable on that supply, or is a flat-rate farmer,

(ii) lower than the open market value of that supply, being an exempted activity, where the supplier engages in the course or furtherance of business in non-deductible supplies or activities as defined in section 12(4)(a), or is a flat-rate farmer, or

(iii) higher than the open market value where the supplier engages in the course or furtherance of business in non-deductible supplies or activities as defined in section 12(4)(a), or is a flat-rate farmer,

and that—

(I) the supplier and the recipient of that supply are persons connected by financial or legal ties, being persons who are party to any agreement, understanding, promise or undertaking whether express or implied and whether or not enforceable or intended to be enforceable by legal proceedings, or

(II) either the supplier or the recipient of that supply exercises control over the other and for this purpose ‘control’ has the meaning assigned to it by section 8(3B).

(b) A value determined in accordance with this subsection shall be deemed to be the true value of

the supply to which it applies, for all the purposes of this Act.

- (c) The Revenue Commissioners may make regulations as seem to them to be necessary for the purposes of this subsection.
- (d) A determination under this section may be made by an inspector of taxes or such other officer as the Revenue Commissioners may authorise for the purpose.”,

and

- (c) in subsection (10) by inserting the following after the definition of ‘open market price’:

“ ‘open market value’, in relation to a supply of goods or services, means the total consideration excluding tax that a customer, at a marketing stage which is the same as the stage at which the supply of the goods or services takes place, would reasonably be expected to pay to a supplier at arm’s length under conditions of fair competition for a comparable supply of such goods or services;

but if there is no such comparable supply of goods or services then ‘open market value’ means—

- (a) in respect of a supply of goods, an amount that is not less than the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time of supply,
- (b) in respect of a supply of services, an amount that is not less than the full cost to the supplier of providing the service;”.

81.—Section 10A(1) of the Principal Act is amended with effect from 1 May 2007 in the definition of “margin scheme goods” by substituting “section 3(5)(d)” for “paragraphs (c) and (d) of subsection (5) of section 3”. Amendment of section 10A (margin scheme goods) of Principal Act.

82.—Section 10B of the Principal Act is amended with effect from 1 May 2007 by deleting paragraph (aa) of subsection (1). Amendment of section 10B (special scheme for auctioneers) of Principal Act.

83.—Section 12 of the Principal Act is amended— Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

- (a) with effect from 1 May 2007 in subsection (1)(a) by deleting subparagraph (ia), and

- (b) in subsection (3)—

- (i) with effect from 1 July 2007 in paragraph (a) by substituting the following for subparagraph (i):

“(i) expenditure incurred by the taxable person on food or drink, or accommodation other than qualifying

accommodation in connection with attendance at a qualifying conference as defined in paragraph (ca), or other personal services, for the taxable person, the taxable person's agents or employees, except to the extent, if any, that such expenditure is incurred in relation to a supply of services in respect of which that taxable person is accountable for tax,"

- (ii) with effect from 1 May 2007 in paragraph (a)(iii) by inserting "or for the purpose of the supply thereof by a person supplying financial services of the kind specified in subparagraph (i)(e) of the First Schedule in respect of those motor vehicles as part of an agreement of the kind referred to in section 3(1)(b)" after "stock-in-trade", and
- (iii) with effect from 1 July 2007 by inserting the following paragraph after paragraph (c):

"(ca) For the purposes of subparagraph (a)(i)—

'delegate' means a taxable person or a taxable person's employee or agent who attends a qualifying conference in the course or furtherance of that taxable person's business;

'qualifying accommodation' means the supply to a delegate of a service consisting of the letting of immovable goods or accommodation covered by paragraph (xiii) of the Sixth Schedule, for a maximum period starting from the night prior to the date on which the qualifying conference commences and ending on the date on which the conference concludes;

'qualifying conference' means a conference or meeting in the course or furtherance of business organised to cater for 50 or more delegates, which takes place on or after 1 July 2007 at a venue designed and constructed for the purposes of hosting 50 or more delegates and in respect of which the person responsible for organising the conference issues in writing the details of the conference to each taxable person who attends or sends a delegate, and such details shall include—

- (i) the location and dates of the conference,
- (ii) the nature of the business being conducted,
- (iii) the number of delegates for whom the conference is organised, and

- (iv) the name, business address and VAT registration number of the person responsible for organising the conference.”.

- 84.**—With effect from 1 January 2007, section 12A of the Principal Act is amended in subsection (1) by substituting “5.2 per cent” for “4.8 per cent”.
- Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.
- 85.**—Section 12B of the Principal Act is amended with effect from 1 May 2007 in subsection (2)(*aa*) by substituting “section 3(5)(*d*)” for “paragraphs (c) and (d) of subsection (5) of section 3”.
- Amendment of section 12B (special scheme for means of transport supplied by taxable dealers) of Principal Act.
- 86.**—Section 12C of the Principal Act is amended in subsections (1A) and (1B) by substituting “section 3(5)(*d*)” for “section 3(5)(c) or (d)” wherever it occurs.
- Amendment of section 12C (special scheme for agricultural machinery) of Principal Act.
- 87.**—Section 14 of the Principal Act is amended with effect from 1 March 2007 in subsection (1) by substituting the following paragraph for paragraph (*b*):
- “(b) the total consideration which such person is entitled to receive in respect of such person’s taxable supplies has not exceeded and is not likely to exceed €1,000,000 in any continuous period of 12 months,”.
- Amendment of section 14 (determination of tax due by reference to cash receipts) of Principal Act.
- 88.**—With effect from 1 January 2007, section 15B is amended—
- (a) in subsection (5A)—
- (i) by substituting “the Slovak Republic,” for “the Slovak Republic, or” in subparagraph (ii), and
- (ii) by inserting the following after subparagraph (ii):
- “(iia) the date of the first use of the means of transport was before 1 January 1999 in the case of means of transport entering the State from the Republic of Bulgaria or Romania, or”,
- and
- (b) in the definition of ‘date of accession’ in subsection (7)(a) by inserting “or 1 January 2007 in respect of the Republic of Bulgaria and Romania” after “Slovak Republic”.
- Amendment of section 15B (goods in transit (additional provisions)) of Principal Act.
- 89.**—Section 16 of the Principal Act is amended by inserting the following subsection after subsection (2):
- “(2A) (a) A taxable person who claims a deduction of tax pursuant to section 12 in respect of qualifying accommodation as defined in section 12(3)(*ca*) shall retain full and true records in relation to the attendance by
- Amendment of section 16 (duty to keep records) of Principal Act.

the delegate at the relevant qualifying conference, including the details referred to in section 12(3)(ca) issued to that taxable person by the person responsible for organising that conference.

- (b) A person responsible for organising a qualifying conference as defined in section 12(3)(ca) and to which section 12(3)(a)(i) relates shall keep full and true records of each such conference organised by that person.”.

Amendment of section 17 (invoices) of Principal Act.

90.—Section 17 of the Principal Act is amended with effect from 1 May 2007—

- (a) in subsection (1) by deleting the proviso to that subsection,
- (b) by deleting subsections (1AA), (3AB), (5A) and (7A), and
- (c) in subsection (1AB) by substituting “for the purposes of subsection (1AAA)” for “for the purposes of subsections (1AA), (1AAA)”.

Amendment of section 25 (appeals) of Principal Act.

91.—Section 25 of the Principal Act is amended—

- (a) in subsection (1)(ac) by inserting “or 10(3A)” after “section 8(3E)”, and
- (b) in subsection (2) by deleting paragraph (i).

Amendment of section 32 (regulations) of Principal Act.

92.—Section 32 of the Principal Act is amended in subsection (1) by inserting the following paragraph after paragraph (xxx):

“(xxxx) the making of a determination under section 10(3A);”.

Amendment of First Schedule to Principal Act.

93.—The First Schedule to the Principal Act is amended by inserting the following after paragraph (v):

“(va) services closely related to medical care covered by section 61 or 61A of the Health Act 1970 which are undertaken by or on behalf of the Health Service Executive or by home care providers duly recognised by that Executive under section 61A of that Act;”.

Amendment of Second Schedule to Principal Act.

94.—Second Schedule to the Principal Act is amended:

- (a) by inserting the following after subparagraph (iiib):

“(iiic) the supply of goods or services to international bodies recognised as such by the public authorities of the host Member State, and to members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by the agreements between the headquarters of those bodies and the host Member State of the headquarters;”.

- (b) in paragraph (v) by substituting “maintenance, chartering and hiring” for “maintenance and hiring”, and
- (c) in subparagraph (b) of paragraph (xii) by substituting “drinking water, juice extracted from, and other drinkable products derived from, fruit or vegetables,” for “including water”.

95.—The Fourth Schedule to the Principal Act is amended, with effect from 1 January 2008, by substituting “intermediaries” for “agents” in paragraph (vii). Amendment of Fourth Schedule to Principal Act.

96.—The Sixth Schedule to the Principal Act is amended—

- (a) with effect from 1 March 2007 by substituting “€35,000” for “€27,500”, in paragraphs (vii**b**) and (vii**c**), and
- (b) with effect from 1 July 2007, by inserting the following after paragraph (xv):

“(xv**a**) children’s car safety seats.”

Amendment of Sixth Schedule to Principal Act.

97.—With effect from 1 January 2007 in each provision of the Principal Act specified in the *first column* of *Schedule 3* for the words set out in the *second column* of that Schedule at that entry there is substituted the words set out at the corresponding entry in the *third column* of that Schedule. Miscellaneous amendments relating to Council Directive 2006/112/EC.

98.—The European Communities (Value-Added Tax) Regulations 2006 (S.I. No. 663 of 2006) shall, with effect from 1 January 2007, be deemed never to have had effect and are revoked. Revocation, etc. (*Part 3*).

PART 4

STAMP DUTIES

99.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999. Interpretation (*Part 4*).

100.—(1) The Principal Act is amended—

Mortgages.

(a) in section 1(1)—

(i) in the Table to the definition of “accountable person”—

(I) in column (1) by deleting “MORTGAGE, BOND, DEBENTURE, COVENANT (except a marketable security) which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas.”, and

(II) in column (2) by deleting “The mortgagee or obligee; in the case of a transfer, the transferee.”,

and

- (ii) by deleting the definitions of “equitable mortgage” and “mortgage”,
- (b) in section 20(8) by deleting paragraph (a),
- (c) by deleting Chapter 5 of Part 5 (sections 57 and 58) and sections 83 and 107,
- (d) in section 85(2)(a) by substituting the following for subparagraph (ii):
 - “(ii) any other loan capital;”,
- (e) in section 105(2) by deleting paragraph (a),
- (f) in section 112(2) by deleting “mortgage, bond, covenant;”,
- (g) in section 113(b) by deleting “or by means of mortgage;”, and
- (h) in Schedule 1—
 - (i) by deleting the following Headings, the provisions thereto and cross-references under those Headings:
 - (I) “AGREEMENT or CONTRACT, accompanied with a deposit.”,
 - (II) “BOND, accompanied with a deposit of title deeds, for making a mortgage or other security on any estate or property comprised in the mortgage or other security.”,
 - (III) “BOND, DECLARATION, or other DEED or WRITING for making redeemable any disposition apparently absolute, but intended only as a security.”,
 - (IV) “CONVEYANCE or TRANSFER by way of security of any property, or of any security.”,
 - (V) “COVENANT for securing the payment or repayment of money, or the transfer or retransfer of stock.”,
 - (VI) “DEFEAZANCE. Instrument of defeazance of any conveyance, transfer or disposition, apparently absolute, but intended only as a security for money or stock.”,
 - (VII) “DEPOSIT of title deeds.”,
 - (VIII) “EQUITABLE MORTGAGE.”,
 - (IX) “FURTHER CHARGE or FURTHER SECURITY.”,
 - (X) “MORTGAGE, BOND, DEBENTURE, COVENANT (except a marketable security)

which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas.”, and

(XI) “MORTGAGE OF STOCK or MARKET-ABLE SECURITY.”,

(ii) in the Heading “ANNUITY” by deleting “Creation of, by way of security. See MORTGAGE, etc.”,

(iii) in the Heading “ASSIGNMENT” by deleting “By way of security, or of any security. See MORTGAGE, etc.”, and

(iv) in the Heading “BILL OF SALE” by deleting “By way of security. See MORTGAGE, etc.”.

(2) Subject to section 7 of the Principal Act, any instrument which, in respect of a particular provision it contains, would but for *paragraph (h) of subsection (1)*, be chargeable to stamp duty under any of the Headings referred to in that paragraph, shall not be chargeable with stamp duty in respect of that provision under any other Heading in Schedule 1 to that Act.

(3) This section applies to instruments executed on or after 7 December 2006.

101.—(1) The Principal Act is amended—

Simplification measures.

(a) in section 1(1)—

(i) by substituting the following for the definition of “bill of exchange”:

“ ‘bill of exchange’ means a draft, an order or a cheque;”,

and

(ii) by deleting the definition of “promissory note”,

(b) in section 3(2)(b) by deleting “or a promissory note”,

(c) in section 12(3) by substituting “any transfer or lease (not being a duplicate or counterpart of a transfer or lease)” for “any transfer or lease”,

(d) by deleting sections 22, 24, 26, and 28,

(e) in section 23 by deleting “or promissory note”,

(f) in section 25—

(i) in subsection (1) by deleting “or a promissory note”, and

(ii) in subsection (2)—

(I) by deleting “or promissory note”, and

(II) by deleting “or note” in each place where it occurs,

(g) in section 73(1) by deleting paragraph (a),

(h) in section 112(2) by deleting “promissory note,”,

(i) in section 151(1)—

(i) by deleting paragraph (e), and

(ii) by substituting the following for paragraph (f):

“(f) the stamp on any bill of exchange which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been accepted or endorsed, where another completed and duly stamped bill of exchange is produced identical in every particular, except in the correction of the error or omission, with the spoiled bill;”

and

(j) in Schedule 1—

(i) by substituting the following for the Heading “BILL OF EXCHANGE or PROMISSORY NOTE.” and for the provisions under that Heading:

“BILL OF EXCHANGE.

Where drawn on an account in the State €0.15.

Exemptions.

(1) Draft or order drawn by any banker in the State on any other banker in the State, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers.

(2) Letter written by a banker in the State to any other banker in the State, directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made or to any person on such person’s behalf.

(3) Draft or order drawn by the Accountant of the Courts of Justice.

(4) Coupon or warrant for interest attached to and issued with any security, or with an agreement or memorandum for the renewal or extension of time for payment of a security.

(5) Coupon for interest on a marketable security being one of a set of coupons whether issued with the security or subsequently issued in a sheet.

(6) Direct debits and standing orders.

(7) Bill drawn on or on behalf of the Minister for Finance by which payment in respect of prize bonds is effected.”,

- (ii) by substituting the following for the Heading “EXCHANGE — instruments effecting.” and for the provisions under that Heading:

“EXCHANGE — instruments effecting.
In the case specified in section 37, see that section.”,

- (iii) by deleting the following Headings and the provisions and cross-references under those Headings:

(I) “CONVEYANCE or TRANSFER of any kind not already described in this Schedule.”,

(II) “LETTER OF CREDIT.”, and

(III) “PROMISSORY NOTE.”,

- (iv) by substituting the following for the Heading “RELEASE or RENUNCIATION of any property, or of any right or interest in any property.” and for the provisions and cross-reference under that Heading:

“RELEASE or RENUNCIATION of any property, or of any right or interest in any property.

On a sale.

See CONVEYANCE or TRANSFER on sale.”,

and

- (v) by substituting the following for the Heading “SURRENDER of any property, or of any right or interest in any property.” and for the provisions and cross-reference under that Heading:

“SURRENDER of any property, or of any right or interest in any property.

On a sale.

See CONVEYANCE or TRANSFER on sale.”.

(2) Subject to section 7 of the Principal Act, any instrument which, in respect of a particular provision it contains, would but for *paragraph (j) of subsection (1)*, be chargeable to stamp duty under any of the Headings referred to in that paragraph, shall not be chargeable with stamp duty in respect of that provision under any other Heading in Schedule 1 to that Act.

(3) This section applies to instruments drawn, made or executed on or after the date of the passing of this Act.

102.—Section 81A of the Principal Act is amended by substituting the following for subsection (14):

“(14) This section applies as respects instruments executed on or after 25 March 2004 and before the date of the passing of the *Finance Act 2007*.”.

Amendment of section 81A (further relief from stamp duty in respect of transfers to young trained farmers) of Principal Act.

Transfers to young trained farmers and qualifications.

103.—The Principal Act is amended—

(a) by inserting the following after section 81A:

“Transfers to young trained farmers.

81AA.—(1) In this section and Schedule 2B—

‘interest in land’ means an interest which is not subject to any power (whether or not contained in the instrument) on the exercise of which the land, or any part of or any interest in the land, may be revested in the person from whom it was conveyed or transferred or in any person on behalf of such person;

‘land’ means agricultural land and includes such farm buildings, farm houses and mansion houses (together with the lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the land;

‘PPS Number’, in relation to a person, means the person’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘Schedule 2 qualification’ means a qualification set out in Schedule 2;

‘Schedule 2A qualification’ means a qualification set out in Schedule 2A;

‘Schedule 2B qualification’ means a qualification set out in Schedule 2B;

‘young trained farmer’ means a person in respect of whom it is shown to the satisfaction of the Commissioners that—

(a) the person had not attained the age of 35 years on the date on which the instrument, in respect of which relief is being claimed under this section, was executed, and

(b) the conditions referred to in subsection (2), (3), (4) or (5) are satisfied;

‘80 hours certificate’ means a certificate awarded by the Further Education and Training Awards Council for achieving the minimum stipulated standard in assessments completed in a course of training, approved by Teagasc, in farm management, the aggregate duration of which exceeded 80 hours;

‘180 hours certificate’ means a certificate awarded by the Further Education and Training Awards Council for achieving the minimum stipulated standard in assessments completed in a course of training approved by Teagasc—

- (a) in either or both agriculture and horticulture, the aggregate duration of which exceeded 100 hours, and
- (b) in farm management, the aggregate duration of which exceeded 80 hours.

(2) The condition required by this subsection is that the person, referred to in paragraph (a) of the definition of young trained farmer, is the holder of a Schedule 2B qualification.

(3) The condition required by this subsection is that the person, referred to in paragraph (a) of the definition of young trained farmer, is the holder of a letter of confirmation from Teagasc, confirming satisfactory completion of a course of training, approved by Teagasc, for persons, who in the opinion of Teagasc, are restricted in their learning capacity due to physical, sensory or intellectual disability or to mental health.

(4) The conditions required by this subsection are that the person, referred to in paragraph (a) of the definition of young trained farmer, before 31 March 2008, is the holder of—

- (a) (i) a qualification set out in subparagraph (f) of paragraph 1, or subparagraph (h) of paragraph 2, of Schedule 2A, and
- (ii) a 180 hours certificate,
- or
- (b) (i) a qualification set out in subparagraph (b), (c) or (d) of paragraph 3 of Schedule 2A, and
- (ii) an 80 hours certificate.

(5) The conditions required by this subsection are that the person, referred to in paragraph (a) of the definition of young trained farmer, before 31 March 2008—

(a) has achieved the required standard for entry into the third year of a full-time course in any discipline of 3 or more years' duration at a third-level institution, and that has been confirmed by the institution, and

(b) is the holder of a 180 hours certificate.

(6) For the purposes of subsection (2), where Teagasc certifies that—

(a) any other qualification corresponds to a Schedule 2B qualification, and

(b) that other qualification is deemed by the National Qualifications Authority of Ireland to be at least at a level equivalent to that of the Schedule 2B qualification,

the Commissioners shall treat that other qualification as if it were a Schedule 2B qualification.

(7) No stamp duty shall be chargeable under or by reference to the heading 'CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance' in Schedule 1 on any instrument to which this section applies.

(8) This section applies to any instrument which operates as a conveyance or transfer (whether on sale or as a voluntary disposition *inter vivos*) of an interest in land to a young trained farmer where—

(a) the instrument contains a certificate that this section applies,

(b) a declaration made in writing by the young trained farmer, or each of them if there is more than one, is furnished to the Commissioners when the instrument is presented for stamping, confirming, to the satisfaction of the Commissioners, that it is the intention of such person, or each such person, for a period of 5 years from the date of execution of the instrument to—

(i) spend not less than 50 per cent of that person's normal working time, farming the land, and

(ii) retain ownership of the land,
and

(c) the PPS Number of the young trained farmer, or each of them if there is more than one, is furnished to the Commissioners when the instrument is presented for stamping.

(9) Notwithstanding subsection (8), this section shall apply where the property is conveyed or transferred into joint ownership where all the joint owners are young trained farmers or where any of the joint owners is a spouse of another joint owner who is a young trained farmer.

(10) Subsection (7) shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(11) (a) For the purposes of this subsection, a person 'achieves the standard' at any time where at that time the person—

(i) satisfies the conditions set out in subsection (2), (3), (4) or (5), or

(ii) is the holder of a qualification treated, by virtue of subsection (6), as being a Schedule 2B qualification,

and whether a person has or has not achieved the standard shall be construed accordingly.

(b) This subsection applies to an instrument by means of which land is conveyed or transferred to a person (in this subsection referred to as the 'transferee') who on the date the instrument was executed was not a young trained farmer by reason only of the fact that the transferee on that date had not achieved the standard.

(c) Where within 4 years from the date of execution of an instrument to which this subsection

applies, the transferee achieves the standard, the Commissioners shall, where a claim for repayment is made to them by the production to them of—

- (i) the stamped instrument,
- (ii) a declaration in writing by the transferee making a claim for repayment, or each of them if there is more than one, confirming, to the satisfaction of the Commissioners, that it is the intention of such person, or each such person, for a period of not less than 5 years from the date on which the claim for repayment is made to the Commissioners to—
 - (I) spend not less than 50 per cent of that person's normal working time, farming the land, and
 - (II) retain ownership of the land,
- (iii) the PPS Number of the transferee making a claim for repayment, or each of them if there is more than one, and
- (iv) satisfactory evidence of compliance with this subsection,

cancel and repay such duty as would not have been chargeable had this section applied to the instrument when it was first presented for stamping.

- (12) (a) Where any person to whom land was conveyed or transferred by any instrument to which subsection (7) or subsection (11) applied—
 - (i) disposes of such land, or part of such land (in this subsection referred to as a 'part disposal'), within a period of 5 years—
 - (I) in a case where subsection (7) applied, from

the date of execution
of that instrument, or

- (II) in a case where subsection (11) applied, from the date the claim for repayment is made to the Commissioners,

and

- (ii) does not fully expend the proceeds from such disposal or, as the case may be, such part disposal, in acquiring other land within a period of one year from the date of such disposal,

then, such person or, where there is more than one such person, each such person, jointly and severally, shall become liable to pay to the Commissioners a penalty equal to an amount determined by the formula—

$$S \times \frac{N}{V}$$

where—

S is the amount of stamp duty that would have been charged on that instrument had subsection (7) not applied or, as the case may be, the amount of stamp duty that was charged on the instrument in the first instance and later repaid under subsection (11)(c),

V is the market value, immediately before the disposal or, as the case may be, the part disposal, of all the land conveyed or transferred by the instrument, and

N is the amount of proceeds from the disposal or, as the case may be, the part disposal, that was not expended in acquiring other land.

- (b) Interest shall be payable on a penalty incurred under paragraph (a), calculated in accordance with section 159D, from the date of the disposal or, as

the case may be, the part disposal, to the date the penalty is remitted.

- (c) For the purposes of paragraph (a)—
- (i) where a disposal of land is effected in whole or in part by way of a voluntary disposition *inter vivos*, an amount equal to the market value of the lands disposed of, at the date of the disposal, shall be deemed to be the proceeds from such disposal,
 - (ii) where any property is received by way of exchange, in whole or in part for a disposal, an amount equal to the market value of such property, at the date of the disposal, shall be deemed to be proceeds from such disposal, and
 - (iii) where subparagraph (ii) applies and property received by way of exchange is land or includes land, an amount equal to the market value of such land at the date of the disposal shall be deemed to have been expended in acquiring other land.
- (d) A person shall not be liable to a penalty under paragraph (a), if and to the extent that any penalty or, as the case may be, the aggregate of any penalties, paid by that person under paragraph (a), exceeds the stamp duty that would have been charged on the instrument had relief under subsection (7) not applied or, as the case may be, the stamp duty that was charged on the instrument in the first instance and later repaid under subsection (11)(c).
- (e) Where any claim for relief from duty under this section has been allowed and it is subsequently found that a declaration made, or a certificate contained in the

instrument, in accordance with subsection (8)—

- (i) was untrue in any material particular which would have resulted in the relief afforded by this section not being granted, and
- (ii) was made, or was included, knowing same to be untrue or in reckless disregard as to whether it was true or not,

then any person who made such a declaration, or where a false certificate has been included, the person or persons to whom the land is conveyed or transferred by the instrument, jointly and severally, shall be liable to pay to the Commissioners as a penalty an amount equal to 125 per cent of the duty that would have been charged on the instrument in the first instance had all the facts been truthfully declared and certified, together with interest charged on that amount as may so become payable, calculated in accordance with section 159D, from the date when the instrument was executed to the date the penalty is remitted.

- (f) Where any claim for relief from duty under this section has been allowed and it is subsequently found that a declaration made in accordance with subsection (11)(c)(ii)—
 - (i) was untrue in any material particular which would have resulted in the repayment of duty under subsection (11)(c) not being made, and
 - (ii) was made knowing same to be untrue or in reckless disregard as to whether it was true or not,

then any person who made such a declaration shall be liable to pay to the Commissioners, as a penalty, an amount equal to 125 per cent of the duty that was charged on the instrument in the first instance, together with

interest charged on that amount calculated in accordance with section 159D, from the date the claim for repayment was made to the Commissioners to the date the penalty is remitted.

(13) Notwithstanding subsection (12)—

- (a) where relief under subsection (7) was allowed in respect of any instrument or where subsection (11) applied to any instrument, a disposal by a young trained farmer of part of the land to a spouse for the purpose of creating a joint tenancy in the land, or where the instrument conveyed or transferred the land to joint owners, a disposal by one joint owner to another of any part of the land, shall not be regarded as a disposal to which subsection (12) applies, but on such disposal, such part of the land shall be treated for the purposes of subsection (12)—
 - (i) in a case where subsection (7) applied, as if it had been conveyed or transferred immediately to the spouse or other joint owner by the instrument in respect of which relief was allowed in the first instance, or
 - (ii) in a case where subsection (11) applied, as if it had been conveyed or transferred to the spouse or other joint owner by the instrument to which subsection (11) applied, but at the date the claim for repayment is made to the Commissioners,
- (b) a person shall not be liable to more than one penalty under paragraph (e) of subsection (12),
- (c) a person shall not be liable to a penalty under paragraph (a) of subsection (12), if and to the extent that such person has paid a penalty under paragraph (e) or (f) of subsection (12), and

- (d) a person shall not be liable to a penalty under paragraph (e) or (f) of subsection (12), if and to the extent that such person has paid a penalty under paragraph (a) of subsection (12).

(14) A person who, before the date of the passing of the Finance Act 2004—

- (a) is the holder of a Schedule 2 qualification or a qualification certified by Teagasc as corresponding to a Schedule 2 qualification and a satisfactory attendance at a course of training, approved by Teagasc, (in farm management, the aggregate duration of which exceeded 80 hours) is required for the purposes of section 81, shall be deemed, for the purposes of this section, to be the holder of a qualification corresponding to one of the qualifications set out in subsection (4)(b)(i),
- (b) is the holder of a Schedule 2 qualification or a qualification certified by Teagasc as corresponding to a Schedule 2 qualification and a satisfactory attendance at a course of training, approved by Teagasc, is not required for the purposes of section 81, shall be deemed, for the purposes of this section, to be the holder of a qualification corresponding to that set out in subparagraph (b) of paragraph 1 of Schedule 2B,
- (c) satisfies the requirements set out in paragraph (b)(ii)(I) of the definition of young trained farmer in section 81(1), shall be deemed, for the purposes of this section, to have satisfied the conditions set out in subsection (5)(a),
- (d) is, for the purposes of section 81, the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training, approved by Teagasc, in farm management, the aggregate duration of which exceeded 80 hours, shall be deemed, for the purposes of this section, to be the holder of an 80 hours certificate, or

- (e) is, for the purposes of section 81, the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training, approved by Teagasc, in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours, shall be deemed, for the purposes of this section, to be the holder of a 180 hours certificate.

(15) A person who, before the date of the passing of the *Finance Act 2007*, is the holder of a Schedule 2A qualification or a qualification certified by Teagasc as corresponding to a Schedule 2A qualification, and is not required, for the purposes of section 81A, to be the holder of an 80 hours certificate or a 180 hours certificate, shall be deemed, for the purposes of this section, to be the holder of a qualification corresponding to that set out in subparagraph (b) of paragraph 1 of Schedule 2B.

(16) This section applies as respects instruments executed on or after the date of the passing of the *Finance Act 2007* and on or before 31 December 2008.”,

and

- (b) by inserting the following after Schedule 2A:

“Section
81AA.

SCHEDULE 2B

QUALIFICATIONS FOR APPLYING FOR RELIEF FROM STAMP DUTY IN RESPECT OF TRANSFERS TO YOUNG TRAINED FARMERS

1. Qualifications awarded by the Further Education and Training Awards Council:

- (a) Level 6 Advanced Certificate in Farming;
- (b) Level 6 Advanced Certificate in Agriculture;
- (c) Level 6 Advanced Certificate in Dairy Herd Management;
- (d) Level 6 Advanced Certificate in Drystock Management;
- (e) Level 6 Advanced Certificate in Agricultural Mechanisation;
- (f) Level 6 Advanced Certificate in Farm Management;

- (g) Level 6 Advanced Certificate in Machinery and Crop Management;
- (h) Level 6 Advanced Certificate in Horticulture;
- (i) Level 6 Advanced Certificate in Forestry;
- (j) Level 6 Advanced Certificate in Stud Management;
- (k) Level 6 Advanced Certificate in Horse-manship.

2. Qualifications awarded by the Higher Education and Training Awards Council:

- (a) Higher Certificate in Agriculture;
- (b) Bachelor of Science in Agriculture;
- (c) Higher Certificate in Agricultural Science;
- (d) Bachelor of Science in Agricultural Science;
- (e) Bachelor of Science (Honours) in Land Management, Agriculture;
- (f) Bachelor of Science (Honours) in Land Management, Horticulture;
- (g) Bachelor of Science (Honours) in Land Management, Forestry;
- (h) Higher Certificate in Engineering in Agricultural Mechanisation;
- (i) Bachelor of Business in Rural Enterprise and Agri-Business;
- (j) Bachelor of Science in Agriculture and Environmental Management;
- (k) Bachelor of Science in Horticulture;
- (l) Bachelor of Arts (Honours) in Horticultural Management;
- (m) Bachelor of Science in Forestry;

(n) Higher Certificate in Business in Equine Studies;

(o) Bachelor of Business in Equine Studies.

3. Qualifications awarded by other third-level institutions:

(a) Bachelor of Agricultural Science — Animal Crop Production awarded by University College Dublin;

(b) Bachelor of Agricultural Science — Animal Science awarded by University College Dublin;

(c) Bachelor of Agricultural Science — Food and Agribusiness Management awarded by University College Dublin;

(d) Bachelor of Agricultural Science — Forestry awarded by University College Dublin;

(e) Bachelor of Agricultural Science — Horticulture, Landscape and Sportsturf Management awarded by University College Dublin;

(f) Bachelor of Veterinary Medicine awarded by University College Dublin;

(g) Bachelor of Science in Equine Science awarded by the University of Limerick;

(h) Diploma in Equine Science awarded by the University of Limerick.”.

Further farm consolidation relief.

104.—(1) The Principal Act is amended by inserting the following after section 81B:

“81C.—(1) (a) In this section—

‘conditions of consolidation’ means the conditions of consolidation as set out in guidelines;

‘consolidation certificate’ means a certificate, issued for the purposes of this section by Teagasc to a farmer in relation to a sale and purchase of qualifying land both of which occur in the relevant period and within 18 months of each other, which identifies the lands concerned, the owners of such lands and certifies that Teagasc is satisfied, on the basis of information available to Teagasc at the time of so certifying, that the sale and purchase of qualifying

land complies, or will comply, with the conditions of consolidation set down in guidelines;

‘farmer’ means a person who spends not less than 50 per cent of the person’s normal working time farming;

‘farming’ includes the occupation of woodlands on a commercial basis;

‘guidelines’ means guidelines made and published pursuant to paragraph (b)(i);

‘interest in qualifying land’ means an interest in qualifying land which is not subject to any power (whether or not contained in the instrument) on the exercise of which the qualifying land, or any part of or any interest in the qualifying land, may be revested in the person from whom it was purchased or in any person on behalf of such person;

‘PPS Number’, in relation to a person, means the person’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘purchase of qualifying land’ means a conveyance or transfer (whether on sale or operating as a voluntary disposition *inter vivos*) of an interest in qualifying land to a farmer and includes a conveyance or transfer where the qualifying land is conveyed or transferred to joint owners where not all the joint owners are farmers; and the date of the purchase of qualifying land shall be the date on which the conveyance or transfer is executed;

‘qualifying land’ means relevant land in respect of which a consolidation certificate has been issued by Teagasc;

‘relevant land’ means agricultural land, including lands suitable for occupation as woodlands on a commercial basis, in the State and such farm buildings together with the lands occupied with such farm buildings as are of a character appropriate to the relevant land but not including farm houses or mansion houses or the lands occupied with such farm houses and mansion houses unless such farm houses or mansion houses are derelict and unfit for human habitation;

‘relevant period’ means the period commencing on 1 July 2007 and ending on 30 June 2009;

‘sale of qualifying land’ means a conveyance or transfer (whether on sale or operating as a voluntary disposition *inter vivos*) of an interest in qualifying land by a farmer and includes a conveyance or transfer where the qualifying land is conveyed or transferred by joint owners where not all the joint owners are farmers; and the date of the sale of qualifying land shall be the date on which the conveyance or transfer is executed;

‘valid consolidation certificate’ means a consolidation certificate which, on any day, has not been withdrawn as at that day.

(b) For the purposes of this section—

(i) the Minister for Agriculture and Food with the consent of the Minister for Finance may make and publish guidelines, from time to time setting out—

(I) how an application for a consolidation certificate is to be made,

(II) the documentation required to accompany such an application,

(III) the conditions of consolidation, and

(IV) such other information as may be required in relation to such application,

(ii) where an application is made in that regard, Teagasc shall issue a consolidation certificate in respect of a sale and purchase of relevant land, where they are satisfied, on the basis of information available to Teagasc at that time, that the sale and purchase of such lands complies, or will comply, with the conditions of consolidation, and

(iii) Teagasc may, by notice in writing, withdraw any consolidation certificate already issued.

(2) This section applies to a purchase of qualifying land by a farmer on any day (in this section referred to as the ‘calculation day’) falling within the relevant period.

(3) Subject to subsections (4) and (5), stamp duty shall be chargeable on the instrument giving effect to the purchase of qualifying land to which this section applies as if it were a purchase of qualifying land made in consideration of a sum determined by the formula—

$$(P - S)$$

where—

P is the aggregate of—

(a) the value of the qualifying land being purchased, and

(b) the value of all other qualifying land purchased by the farmer in the relevant period where the date of the purchase falls in the period of 18 months ending on the calculation day and where any such purchase was treated by virtue of this subsection as having been made in consideration of a lesser amount in consequence of a sale of qualifying land being made before the commencement of that 18 month period, that

lesser amount shall be treated as the value of that purchase,

and

S is the aggregate of the value of all the qualifying land sold by the farmer in the relevant period where the date of the sale falls in the period of 18 months ending on the calculation day, to the extent that it has not given rise to a repayment of duty under subsection (5) in respect of a purchase of qualifying land made before the commencement of that 18 month period.

(4) Where an amount of duty has been paid in accordance with subsection (3) and is not repayable (in this subsection referred to as the ‘relevant amount’) on a purchase of qualifying land by a farmer on a calculation day (in this subsection referred to as the ‘first calculation day’), the duty chargeable on a purchase of qualifying land by the farmer on a later calculation day, which falls within the period of 18 months commencing on the first calculation day, shall be reduced by the relevant amount.

(5) Where at any time in the period of 18 months commencing on a calculation day, qualifying land is sold by a farmer, that sale shall be treated as if it were a sale made on the calculation day and the duty chargeable, in accordance with subsection (3), on the instrument giving effect to the purchase of qualifying land made on the calculation day shall be recomputed in accordance with subsection (3) and an amount equal to the difference between—

- (a) the duty charged on the instrument prior to the recomputation, and
- (b) the duty that is chargeable on the instrument after the recomputation,

shall, subject to compliance with the conditions set out in subsection (6), be repaid by the Commissioners where a claim for repayment is made to them in that regard.

(6) A claim for relief under subsection (3) or a claim for relief by way of repayment under subsection (5), made to the Commissioners under this section, shall be allowed on the production to them of—

- (a) the instrument giving effect to the purchase of the qualifying land,
- (b) a certified copy of the instrument giving effect to the sale of the qualifying land,
- (c) a valid consolidation certificate in relation to the purchase and sale of the qualifying land in respect of which the claim for relief is being made,
- (d) a declaration of a kind referred to in subsection (7), made by each farmer who has purchased the qualifying land referred to in paragraph (a),

- (e) a declaration made in writing by each person, who has purchased the qualifying land referred to in paragraph (a), in such form as the Commissioners may specify, declaring that it is the intention of such person—
 - (i) to retain ownership of his or her interest in the qualifying land, and
 - (ii) that the qualifying land will be used for farming, for a period of not less than 5 years from the date on which the first claim for relief in respect of the qualifying land is made, and
- (f) the PPS Number of each person who has purchased the qualifying land referred to in paragraph (a).

(7) The declaration referred to in subsection (6)(d) is a declaration made in writing by a farmer, in such form as the Commissioners may specify, which—

- (a) is signed by the farmer, and
- (b) declares that the farmer—
 - (i) will remain a farmer, and
 - (ii) will farm the qualifying land referred to in subsection (6)(a), for a period of not less than 5 years from the date on which the first claim for relief in respect of the qualifying land is made.

(8) This section shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is duly stamped or, as the case may be, that it is not chargeable with any duty.

- (9) (a) Subject to paragraph (b), where any person who purchased qualifying land by any instrument in respect of which relief was allowed by the Commissioners, disposes of such qualifying land, or part of such qualifying land, within a period of 5 years from the date on which the first claim for relief in respect of the qualifying land is allowed, then such person or, where there is more than one such person, each such person, jointly and severally, shall become liable to pay to the Commissioners a penalty of an amount equal to the amount of the difference between—
 - (i) the duty that would have been charged on the value of such qualifying land, if such qualifying land had been purchased by that person or, where there is more than one such person, each such person, by an instrument to which this section had not applied, and
 - (ii) the duty, if any, that was charged and is not repayable on the instrument concerned,

together with interest charged on that amount, calculated in accordance with section 159D, from the date of disposal of the qualifying land or, as the case may be, a part thereof, to the date the penalty is remitted.

(b) Paragraph (a) shall not apply to any disposal of qualifying land which is being compulsorily acquired but subsection (5) shall not apply to give relief, after that disposal, in respect of the duty already charged on the purchase of qualifying land.

(c) Where any claim for relief from duty under this section has been allowed and it is subsequently found that a declaration referred to in paragraph (d) or (e) of subsection (6)—

(i) was untrue in any material particular which would have resulted in the relief not being allowed, and

(ii) was made knowing same to be untrue or in reckless disregard as to whether it was true or not,

then the person or persons who made such a declaration, jointly and severally, shall become liable to pay to the Commissioners a penalty of an amount equal to the amount of the difference between—

(I) 125 per cent of the duty that would have been charged on the instrument had this section not applied due to all the facts not having been truthfully declared, and

(II) the duty, if any, that was charged and is not repayable on the instrument concerned,

together with interest charged on that amount, calculated in accordance with section 159D, from the date when the claim for relief was made to the Commissioners to the date the penalty is remitted.

(d) Where a consolidation certificate, purporting to be valid at the date when a claim for relief under this section is made to the Commissioners, is furnished to the Commissioners and it subsequently transpires that the consolidation certificate was not a valid consolidation certificate on that date, the parties to the instrument who have purchased the qualifying land, jointly and severally, shall become liable to pay to the Commissioners a penalty of an amount equal to the amount of the difference between—

(i) 125 per cent of the duty that would have been charged on the instrument had this section not applied to it, and

(ii) the duty, if any, that was charged and is not repayable on the instrument concerned,

together with interest charged on that amount, calculated in accordance with section 159D, from the date the claim for relief is made to the Commissioners to the date the penalty is remitted.

(10) Notwithstanding subsection (9)—

- (a) where relief under this section was allowed in respect of any instrument, a disposal by a farmer or other joint owner of part of the qualifying land to a spouse for the purpose of creating a joint tenancy in the qualifying land, or where the instrument gave effect to the purchase of the qualifying land by joint owners, a disposal by one joint owner, to another joint owner (being a farmer) of any part of the qualifying land, shall not be regarded as a disposal to which subsection (9) applies, but on such disposal, such part of the qualifying land shall be treated for the purposes of subsection (9) as if it had been purchased immediately by the spouse or other joint owner by the instrument in respect of which relief was allowed,
- (b) a person shall not be liable, in respect of the same matter, to more than one penalty under paragraph (a), (c) or (d) of subsection (9),
- (c) a person shall not be liable, in respect of the same matter, to a penalty under paragraph (a) of subsection (9), if and to the extent that such person has paid a penalty under paragraph (c) or (d) of subsection (9),
- (d) a person shall not be liable, in respect of the same matter, to a penalty under paragraph (c) of subsection (9), if and to the extent that such person has paid a penalty under paragraph (a) or (d) of subsection (9), and
- (e) a person shall not be liable, in respect of the same matter, to a penalty under paragraph (d) of subsection (9), if and to the extent that such person has paid a penalty under paragraph (a) or (c) of subsection (9).

(11) This section shall not apply to any instrument effecting a purchase of qualifying land where the purchaser of such land or, as the case may be, any of the purchasers, is a company.

(12) This section applies as respects instruments executed on or after 1 July 2007 and on or before 30 June 2009.”.

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Approved sports bodies.

105.—(1) The Principal Act is amended by inserting the following after section 82A:

“82B.—(1) In this section ‘approved sports body’ means an ‘approved body of persons’ within the meaning of section 235(1) of the Taxes Consolidation Act 1997.

(2) Stamp duty shall not be chargeable on any instrument operating as a conveyance, transfer or lease, of land to an approved sports body.

(3) Subsection (2) shall not apply to an instrument unless—

- (a) the land conveyed, transferred or leased by the instrument will be used for the sole purpose of promoting athletic or amateur games or sports, and
- (b) the instrument—
- (i) contains a certificate, in such form as the Commissioners may specify, that this section applies, and
- (ii) has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with duty.
- (4) (a) Where an approved sports body to whom land was conveyed, transferred or leased by any instrument to which subsection (2) applied—
- (i) disposes of such land, or part of such land (in this subsection referred to as a ‘part disposal’), and
- (ii) does not fully apply the proceeds from such disposal or, as the case may be, such part disposal, to the sole purpose of promoting athletic or amateur games or sports,

then such approved sports body shall become liable to pay to the Commissioners a penalty equal to an amount determined by the formula—

$$S \times \frac{N}{V}$$

where—

S is the amount of stamp duty that would have been charged on that instrument had subsection (2) not applied,

V is the market value, immediately before the disposal or the part disposal, of all the land conveyed, transferred or leased by the instrument, and

N is the amount of proceeds from the disposal or, as the case may be, the part disposal that has not been, or will not be, applied to the sole purpose of promoting athletic or amateur games or sports.

- (b) For the purposes of paragraph (a)—
- (i) where any property is received by way of exchange, in whole or in part for a disposal, and has been, or will be, applied to the sole purpose of promoting athletic or amateur games or sports, an amount equal to the market value of such property, at the date of the disposal, shall be deemed to be proceeds from such disposal which have been, or will be, applied to that same purpose, and

- (ii) where a disposal of land is effected in whole or in part by way of a voluntary disposition *inter vivos*, an amount equal to the market value of the lands disposed of, at the date of the disposal, less the amount, if any, received as proceeds from the disposal, shall be deemed to be proceeds from the disposal which have not been, or will not be, applied to the sole purpose of promoting athletic or amateur games or sports.

(5) Where an approved sports body to whom land was conveyed, transferred or leased by any instrument to which subsection (2) applied, ceases, at any time, to use the land, beneficially owned by it, for the sole purpose of promoting athletic or amateur games or sports, the approved sports body shall become liable to pay to the Commissioners a penalty equal to the amount of stamp duty which would have been charged on the instrument, in the first instance, had subsection (2) not applied.

(6) Interest shall be payable on a penalty incurred under subsection (4) or (5) calculated in accordance with section 159D, from the date of any disposal or cessation to the date the penalty is remitted.

(7) Notwithstanding subsections (4) and (5), the maximum penalty payable on any instrument shall not exceed the amount of duty which would have been charged on the instrument in the first instance had subsection (2) not applied.”.

(2) This section applies as respects instruments executed on or after 7 December 2006.

Amendment of section 83A (transfer of site to child) of Principal Act.

106.—(1) Section 83A of the Principal Act is amended in subsection (1) by substituting the following for the definition of “site”:

“ ‘site’, in relation to an instrument of conveyance, transfer or lease, means land comprising both—

- (a) the area of land on which a dwelling house, referred to in subsection (3)(c), is to be constructed, and
- (b) an area of land for occupation and enjoyment with that dwelling house as its gardens or grounds which, exclusive of the area referred to in paragraph (a), does not exceed 0.4047 hectare,

but does not include an area of land on which a building is situated which building at the date of execution of that instrument—

- (i) was used or was suitable for use as a dwelling or for other purposes, or
- (ii) was in the course of being constructed or adapted for use as a dwelling or for other purposes.”.

(2) This section applies as respects instruments executed on or after 1 February 2007.

107.—(1) The Principal Act is amended by inserting the following after section 83A: Certain family farm transfers.

“83B.—(1) Stamp duty shall not be chargeable on any instrument operating as a conveyance or transfer of land, the subject of the disposal by the child referred to in paragraph (d) (inserted by the *Finance Act 2007*) of section 599(1) of the Taxes Consolidation Act 1997.

(2) Subsection (1) shall not apply to an instrument unless the instrument—

- (a) contains a certificate, in such form as the Commissioners may specify, that this section applies, and
- (b) has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with duty.”.

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

108.—(1) Section 92B of the Principal Act is amended in subsection (8)— Amendment of section 92B (residential property first time purchaser relief) of Principal Act.

(a) by substituting the following for paragraph (a):

“(a) (i) Notwithstanding subsection (1), a spouse to a marriage (in this subsection referred to as a ‘claimant’), the subject of a decree of divorce, a decree of judicial separation, a decree of nullity or a deed of separation (in this subsection referred to as a ‘decree’), shall be deemed to be a first time purchaser for the purposes of the definition in subsection (1), in respect of the first conveyance or transfer, including a conveyance or transfer operating as a voluntary disposition within the meaning of section 30, to the claimant, of a dwelling house, after the date of the decree, where the conditions set out in subparagraph (ii) are satisfied.

(ii) The conditions required by this subparagraph are that—

(I) immediately prior to the date of the decree, the claimant is not beneficially entitled to an interest in any dwelling house other than the dwelling house referred to in clause (II),

(II) the dwelling house, most recently acquired prior to the date of the decree, which was the only or main residence of the claimant and his or her spouse at some time prior to the date of the decree, did not cease to be occupied, at the date of the decree, by

the spouse of the claimant as his or her only or main residence and the spouse was beneficially entitled to an interest in the dwelling house on that date or acquired such an interest after that date by virtue or in consequence of, the decree, and

- (III) at the date of execution of the instrument, giving effect to the conveyance or transfer, the claimant is not beneficially entitled to an interest in the dwelling house referred to in clause (II).
- (aa) (i) Where, by reason only of the fact that the first conveyance or transfer (referred to in paragraph (a)(i)) of a dwelling house was executed on or before the date of the decree, and as a consequence the claimant cannot satisfy the conditions set out in clauses (I) and (III) of paragraph (a)(ii), the claimant shall be deemed to be a first time purchaser for the purposes of the definition in subsection (1), where the first conveyance or transfer is executed in the period of 6 months ending on the date of the decree and the conditions set out in subparagraph (ii) are satisfied.
- (ii) The conditions required by this subparagraph are that—
- (I) the first conveyance or transfer was made in anticipation of the decree, and
- (II) immediately before the date of the decree, the claimant was not beneficially entitled to an interest in any dwelling house other than the dwelling house referred to in subparagraph (i) and the dwelling house referred to in clause (II) of paragraph (a)(ii).
- (iii) Where by virtue of subparagraph (i) a claimant is deemed to be a first time purchaser in respect of a first conveyance or transfer, the Commissioners, on a claim being made to them on that behalf and on the conditions set out in subparagraph (iv) being satisfied, shall cancel and repay such duty or part of such duty as would not have been chargeable had paragraph (a) applied to the conveyance or transfer when it was first presented for stamping.
- (iv) The conditions required by this subparagraph are that the claimant, when making a claim for repayment, shall produce to the Commissioners—
- (I) the stamped instrument,

- (II) a copy of the decree,
- (III) a declaration made in writing by the claimant, in such form as the Commissioners may specify, confirming to the satisfaction of the Commissioners that—
 - (A) the conveyance or transfer was made in connection with the decree,
 - (B) immediately before the date of the decree, the claimant was not beneficially entitled to an interest in any dwelling house other than the dwelling house referred to in subparagraph (i) and the dwelling house referred to in clause (II) of paragraph (a)(ii),
 - (C) the dwelling house referred to in clause (II) of paragraph (a)(ii) did not cease to be occupied, at the date of the decree, by the spouse of the claimant as his or her only or main residence and the spouse was beneficially entitled to an interest in the dwelling house on that date or acquired such an interest after that date by virtue or in consequence of the decree,
 - (D) at the time of making the claim for repayment, the claimant was not beneficially entitled to an interest in the dwelling house referred to in clause (II) of paragraph (a)(ii),
 - (E) since the date of execution of the conveyance or transfer, the conditions referred to in subsection (3)(b)(ii) or, as the case may be, section 92(1)(b)(ii) have been complied with and will be complied with for the remainder of the 5 year period referred to in the subsection or, as the case may be, the section,
 - (F) the conveyance or transfer is one to which subsection (3A) does not apply, and
 - (G) where the dwelling house was conveyed or transferred to the claimant and another person, that the other person was a first time purchaser within the meaning of subsection (1), immediately prior to the date of execution of the

conveyance or transfer
concerned,

- (IV) the PPS Number of the claimant and any other person to whom the dwelling house was conveyed or transferred, and
 - (V) such other evidence that the Commissioners may require for the purposes of this subparagraph.
- (v) Subsection (4) shall apply to a conveyance or transfer to which subparagraph (ii) applies as it applies to an instrument to which subsection (2) applies, with any necessary modifications.”,

and

(b) in paragraph (b)—

- (i) in the definition of “decree of nullity” by substituting “in the State;” for “in the State.”, and
- (ii) by inserting the following after the definition of “decree of nullity”:

“ ‘deed of separation’ means a deed of separation executed by both spouses to a marriage and the date of a deed of separation is the date on which such deed is executed by both spouses to the marriage;

‘dwelling house’ means a dwelling house or apartment or a part of a dwelling house or apartment;

‘PPS Number’, in relation to a person, means the person’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005.”.

(2) This section applies as respects instruments executed on or after 1 February 2007.

Amendment of Part 6 (special provisions relating to uncertificated securities) of Principal Act.

109.—(1) Part 6 of the Principal Act is amended—

- (a) in section 68 by deleting the definitions of “market maker”, “member firm” and “relevant period”,
- (b) in section 73(1) by deleting paragraph (b),
- (c) by deleting section 74, and
- (d) by substituting the following for section 75:

“Relief for intermediaries.

75.—(1) In this section—

‘excluded business’ means any of the following:

- (a) any business which consists in the making or managing of investments;
- (b) any business which consists in, or is carried on for the purpose of, providing services to persons who are connected with the person carrying on the business; and the question of whether a person is connected with another person shall be determined in accordance with the provisions of section 10 of the Taxes Consolidation Act 1997;
- (c) any business which consists in insurance business, or assurance business within the meaning of section 3 of the Insurance Act 1936;
- (d) any business which consists in administering, managing or acting as trustee in relation to, a pension scheme, or which is carried on by the administrator, manager or trustee of such a scheme, in connection with or for the purposes of the scheme;
- (e) any business which consists in operating, or acting as trustee in relation to, a collective investment scheme (within the meaning of section 88), or is carried on by the operator or trustee of such a scheme in connection with or for the purposes of the scheme;

‘intermediary’ means a person who carries on a *bona fide* business of dealing in securities and, for the purpose of this definition, the entering into derivative agreements referenced directly or indirectly to securities shall be treated as carrying on a business of dealing in securities;

‘member firm’ means a member of—

- (a) the Irish Stock Exchange Limited,
- (b) the London Stock Exchange plc, or
- (c) any other exchange or market which is designated for the purposes of this section in regulations made by the Commissioners;

‘operator’, in relation to a collective investment scheme, means an administrator, manager or other such person who is authorised to act on behalf of, or in connection with, or for the purposes of, the scheme and habitually so acts in that capacity;

‘recognised intermediary’, in relation to an exchange or market, means a member of the exchange or market who is an intermediary and who is approved by the Commissioners as a recognised intermediary in accordance with arrangements made by the Commissioners with the exchange or market.

(2) For the purposes of this section, a transfer of securities is effected on an exchange or market if—

- (a) it is subject to the rules of the exchange or, as the case may be, the market, and
- (b) it is reported to the exchange or, as the case may be, the market, in accordance with the rules of the exchange or market concerned.

(3) Stamp duty shall not be chargeable on an instrument of transfer whereby any securities are on the sale of such securities transferred to a person or a nominee of such person, where—

- (a) the person is a member firm of an exchange or market,
- (b) the person is a recognised intermediary in relation to the exchange or market,
- (c) the transfer of securities is effected—
 - (i) on the exchange or, as the case may be, the market,
 - (ii) on any exchange or market operated by the Irish Stock Exchange Limited or the London Stock Exchange plc, or
 - (iii) on any other exchange or market designated by the Commissioners for the purposes of this section,

and

- (d) the transfer of securities is not effected in connection with an excluded business.
- (4) (a) The Commissioners may, from time to time, make arrangements with an exchange or a market setting out how a member firm is to be approved by the Commissioners as a recognised intermediary.
- (b) Every recognised intermediary shall, whenever and wherever required to do so, make available for inspection by an officer of the Commissioners authorised for that purpose, all books, documents and other records in the possession of or under the control of, the recognised intermediary, as are relevant for the purposes of the Commissioners ensuring compliance by the intermediary with this section.
- (5) (a) The Commissioners may, from time to time, make regulations to designate an exchange or market for the purposes of this section.
- (b) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Relief for clearing houses.

75A.—(1) In this section—

‘clearing house’ means a body or association which provides services related to the clearing and settlement of transactions and payments and the management of risks associated with the resulting contracts and which is regulated or supervised in the provision of those services (in this section referred to as ‘clearing services’) by a regulatory body, or an agency of government, of a Member State of the European Communities;

‘clearing participant’ means a member of a recognised clearing house who is permitted by the clearing house to provide clearing

services in connection with a transfer of securities;

‘client’ means a person who gives instructions for securities to be sold;

‘nominee’ means a person whose business is or includes holding securities as a nominee for a recognised clearing house acting in its capacity as a provider of clearing services or, as the case may be, a nominee for a clearing participant or a non-clearing participant;

‘non-clearing participant’ means a member of an exchange or market when not acting as a clearing participant;

‘recognised clearing house’ means—

- (a) Eurex Clearing AG,
- (b) LCH.Clearnet Limited,
- (c) SIS SegmaInterSettle AG, or
- (d) any other clearing house designated as a recognised clearing house for the purposes of this section by regulations made by the Commissioners.

(2) Stamp duty shall not be chargeable on an instrument of transfer whereby any securities are on the sale of such securities transferred in the circumstances referred to in subsection (3) where the conditions referred to in subsection (4) are satisfied.

(3) The circumstances referred to in this subsection are that the transfer of securities is—

- (a) from a clearing participant or a nominee of a clearing participant, to another clearing participant or a nominee of that other clearing participant,
- (b) from a client or a non-clearing participant or a nominee of a non-clearing participant, to a clearing participant or a nominee of a clearing participant,
- (c) from a non-clearing participant or a nominee of a non-clearing participant or a clearing participant or a nominee of a clearing participant, to a recognised clearing house or a nominee of a recognised clearing house,

- (d) from a person other than a clearing participant, to a recognised clearing house or a nominee of a recognised clearing house, as a result of a failure by a clearing participant to fulfil that clearing participant's obligations in respect of the transfer of securities to the recognised clearing house or a nominee of the recognised clearing house,
- (e) from a recognised clearing house or a nominee of a recognised clearing house, to a clearing participant or a nominee of a clearing participant or a non-clearing participant or a nominee of a non-clearing participant, or
- (f) from a clearing participant, or a nominee of a clearing participant to a non-clearing participant or a nominee of a non-clearing participant.

(4) The conditions referred to in this subsection are that the person to whom the securities are transferred under a transfer of securities referred to in paragraphs (a) to (f) of subsection (3) (in this section referred to as the 'relevant transfer') is required on receipt of those securities to transfer securities under a matching transfer to another person, or in the case of a relevant transfer falling within paragraph (d), would have been so required if the failure referred to in that paragraph had not occurred.

(5) For the purposes of subsection (4), a 'matching transfer' means a transfer of securities under which—

- (a) the securities transferred are of the same kind as the securities transferred under the relevant transfer, and
 - (b) the number of and consideration paid for, the securities transferred are identical to the number of and consideration paid for, the securities transferred under the relevant transfer.
- (6) (a) The Commissioners may, from time to time, make regulations to designate a clearing house as a recognised clearing house for the purposes of this section.

(b) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

(2) (a) Subject to *paragraph (b)*, this section comes into operation on such day or days as the Minister for Finance may by order appoint and different days may be appointed for different purposes or different provisions.

(b) The Revenue Commissioners may, before this section comes into operation, make arrangements with an exchange or market setting out how a member firm is to be approved as a recognised intermediary by the Commissioners when this section comes into operation.

Land: special provisions.

110.—(1) The Principal Act is amended—

(a) by inserting the following after section 31:

“Resting in contract.

31A.—(1) Where—

(a) the holder of an estate or interest in land in the State enters into a contract or agreement with another person for the sale of the estate or interest to that other person or to a nominee of that other person, and

(b) a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the consideration for the sale has been paid to, or at the direction of, the holder of the estate or interest at any time pursuant to the contract or agreement, and

(c) within 30 days of the first such time a conveyance or transfer, made in conformity with the contract or agreement, and executed by the parties to the contract or agreement is not presented to the Commissioners for stamping with ad valorem duty chargeable on it,

then the contract or agreement shall be chargeable with the same ad valorem duty, to be paid by the other person, as if it were

a conveyance or transfer of the estate or interest in the land.

(2) Where duty has been paid, in respect of a contract or agreement, in accordance with subsection (1), a conveyance or transfer made in conformity with the contract or agreement shall not be chargeable with any duty, and the Commissioners, on application, either shall denote the payment of the ad valorem duty on the conveyance or transfer, or shall transfer the ad valorem duty to the conveyance or transfer on production to them of the contract or agreement, duly stamped.

Licence
agreements.

31B.—(1) In this section ‘development’, in relation to any land, means—

- (a) the construction, demolition, extension, alteration or reconstruction of any building on the land, or
- (b) any engineering or other operation in, on, over or under the land to adapt it for materially altered use.

(2) Where—

- (a) the holder of an estate or interest in land in the State enters into an agreement with another person under which that other person, or a nominee of that other person, is entitled to enter onto the land to carry out development on that land, and
- (b) by virtue of the agreement, otherwise than as consideration for the sale of all or part of the estate or interest in the land, the holder of the estate or interest in the land receives at any time a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the market value of the land concerned,

then within 30 days of the first such time, the agreement shall be chargeable with the same ad valorem duty, to be paid by that other person, as if it were a conveyance or transfer of the estate or interest in the land.”,

(b) by deleting section 36,

(c) by inserting the following after section 50:

“Agreements
for more than
35 years
charged as
leases.

50A.—An agreement for a lease or with respect to the letting of any lands, tenements, or heritable subjects for any term exceeding 35 years, shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement where 25 per cent or more of that consideration has been paid.”,

and

(d) by substituting “section 50 or 50A” for “section 50” in paragraph (4) of the Heading “LEASE” in Schedule 1.

(2) This section comes into operation on such day or days as the Minister for Finance may by order appoint and different days may be appointed for different purposes or different provisions.

Amendment of
section 159A (time
limits for claiming a
repayment of stamp
duty) of Principal
Act.

111.—Section 159A of the Principal Act is amended in subsection (1) by substituting “the date the statement of liability was delivered to the Commissioners, the date the operator-instruction referred to in section 69 was made or the date the person achieves the standard within the meaning of section 81AA(11)(a).” for “the date the statement of liability was delivered to the Commissioners or the date the operator-instruction referred to in section 69 was made.”.

PART 5

CAPITAL ACQUISITIONS TAX

Interpretation
(Part 5).

112.—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of
section 18
(computation of
tax) of Principal
Act.

113.—(1) Section 18 of the Principal Act is amended—

(a) by substituting the following for the definition of “relevant period” in subsection (1):

“ ‘relevant period’ means—

- (a) in relation to an earlier relevant inheritance, the period of 5 years commencing on the date of death of the disponer,
- (b) in relation to a settled relevant inheritance, the period of 5 years commencing on the date of death of the life tenant concerned,
- (c) in relation to a will trust relevant inheritance, the period of 5 years commencing on the date when property becomes subject to a discretionary trust which was created under the will of the disponer, and

(d) in relation to a later relevant inheritance, the period of 5 years commencing on the latest date on which a later relevant inheritance was deemed to be taken from the donor;”,

(b) by substituting the following for the definition of “the appropriate trust” in subsection (1):

“ ‘the appropriate trust’, in relation to a relevant inheritance, means the trust by which the inheritance was deemed to have been taken;

‘will trust relevant inheritance’ means a relevant inheritance deemed to be taken when property becomes subject to a discretionary trust which was created under the will of the donor.”,

and

(c) by substituting the following for subsection (3):

“(3) Where, in the case of each earlier relevant inheritance, each settled relevant inheritance, each will trust relevant inheritance or each later relevant inheritance, as the case may be, taken from the same donor, one or more objects of the appropriate trust became beneficially entitled in possession before the expiration of the relevant period to an absolute interest in the entire of the property of which that inheritance consisted on and at all times after the date of that inheritance (other than property which ceased to be subject to the terms of the appropriate trust by virtue of a sale or exchange of an absolute interest in that property for full consideration in money or money’s worth), then, in relation to all such earlier relevant inheritances, all such settled relevant inheritances, all such will trust relevant inheritances or all such later relevant inheritances, as the case may be, the tax so chargeable is computed at the rate of 3 per cent.”.

(2) This section applies to inheritances deemed to be taken on or after 1 February 2007.

114.—(1) Section 21 of the Principal Act is amended by substituting the following for paragraph (b):

Amendment of section 21 (application of this Act) of Principal Act.

“(b) the valuation date of the taxable inheritance is the relevant chargeable date;”.

(2) This section applies to inheritances deemed to be taken on or after 1 February 2007.

115.—(1) Section 51 of the Principal Act is amended in subsection (3) by substituting the following for paragraph (e):

Amendment of section 51 (payment of tax and interest on tax) of Principal Act.

“(e) to the extent to which section 86(6) or (7) applies, for the duration of the period from the valuation date to the date the exemption ceases to apply,

(f) to the extent to which section 102A(2) applies, for the duration of the period from the valuation date to the date the development land is disposed of.”.

(2) This section applies where the event that causes the exemption to cease to apply or the tax to be re-computed, as the case may be, occurs on or after 1 February 2007.

Amendment of section 86 (exemption relating to certain dwellings) of Principal Act.

116.—(1) Section 86 of the Principal Act is amended by inserting the following after subsection (3):

“(3A) For the purposes of subsection (3)(a), in the case of a gift—

- (a) any period during which a donee occupied a dwelling house that was, during that period, the disponent’s only or main residence, shall be treated as not being a period during which the donee occupied the dwelling house unless the disponent is compelled, by reason of old age or infirmity, to depend on the services of the donee for that period,
- (b) where paragraph (a)(i) of subsection (3) applies, the dwelling house referred to in that paragraph is required to be owned by the disponent during the 3 year period referred to in that paragraph, and
- (c) where paragraph (a)(ii) of subsection (3) applies, either the dwelling house or the other property referred to in that paragraph is required to be owned by the disponent during the 3 year period referred to in that paragraph.”.

(2) This section applies to gifts taken on or after 20 February 2007.

Amendment of section 89 (provisions relating to agricultural property) of Principal Act.

117.—(1) Section 89 of the Principal Act is amended in subsection (1) by substituting the following for paragraph (a) of the definition of “farmer”:

“(a) no deduction is made from the market value of property for any debts or encumbrances (except debts or encumbrances in respect of a dwelling house which is the only or main residence of the donee or successor and which is not agricultural property), and”.

(2) This section applies to gifts and inheritances taken on or after 1 February 2007.

PART 6

RESIDENTIAL PROPERTY TAX

Amendment of section 110A (clearance on sale of certain residential property) of Finance Act 1983.

118.—Section 110A (inserted by the Finance Act 1993) of the Finance Act 1983 is amended—

(a) in subsection (9)—

- (i) by substituting “on or after the date of the passing of the Finance Act 1993 and before 1 February 2007” for “on or after the date of the passing of the Finance Act, 1993”, and

- (ii) by substituting “until the earlier of the expiration of 12 years from that date and 1 February 2007” for “for 12 years from that date”,

and

- (b) by inserting the following after subsection (12):

“(13) Subsection (2) of this section shall not apply to the sale of an estate or interest in residential property completed on or after 1 February 2007.”.

PART 7

MISCELLANEOUS

119.—In this Part “Principal Act” means the Taxes Consolidation Act 1997. Interpretation (*Part 7*).

120.—With effect from the passing of this Act, section 1001 of the Principal Act is amended by substituting the following for paragraph (c) of subsection (3): Amendment of section 1001 (liability to tax, etc. of holder of fixed charge on book debts of company) of Principal Act.

“(c) where within 21 days of the creation of the fixed charge the holder of the fixed charge furnishes in writing to the Revenue Commissioners the following details in relation to the charge:

- (i) the name of the company on whose book debts the charge has been created;
- (ii) the registration number of the company as issued by the Companies Registration Office to that company;
- (iii) the tax registration number of the company as issued by the Revenue Commissioners to that company;
- (iv) the date the fixed charge was created; and
- (v) the name and address of the holder of the fixed charge;

to any relevant amount which the company was liable to pay before the date on which the holder is notified in writing by the Revenue Commissioners in accordance with paragraph (a).”.

121.—(1) Subsection (2) of section 865A (inserted by the Finance Act 2003) of the Principal Act is amended by substituting “93 days” for “6 months”. Amendment of provisions relating to interest on repayments.

(2) Subsection (3) of section 21A (inserted by the Finance Act 2003) of the Value-Added Tax Act 1972 is amended by substituting “93 days” for “six months” in both places where it occurs.

(3) Subsection (3) of section 105D (inserted by the Finance Act 2003) of the Finance Act 2001 is amended by substituting “93 days” for “6 months” and “93 day period” for “6 month period”.

(4) Paragraph (a) of the definition of “relevant date” in subsection (1) of section 57 (amended by the Finance Act 2003) of the Capital Acquisitions Tax Consolidation Act 2003 is amended by substituting “93 days” for “183 days”.

(5) Paragraph (a) of the definition of “relevant date” in subsection (1) of section 159B (inserted by the Finance Act 2003) of the Stamp Duties Consolidation Act 1999 is amended by substituting “93 days” for “183 days”.

(6) This section applies to interest payable under—

- (a) section 865A of the Principal Act,
- (b) section 21A of the Value-Added Tax Act 1972,
- (c) section 105D of the Finance Act 2001,
- (d) section 57 of the Capital Acquisitions Tax Consolidation Act 2003, or
- (e) section 159B of the Stamp Duties Consolidation Act 1999,

on repayments to which those sections apply made on or after the passing of this Act.

Amendment of section 1003A (payment of tax by means of donation of heritage property to an Irish heritage trust) of Principal Act.

122.—(1) Section 1003A of the Principal Act is amended by inserting the following after subsection (11):

- “(11A) (a) In the event that Fota House in County Cork is acquired by the Trust, either by way of a relevant gift under this section or otherwise, and the collection referred to in paragraph (b) is acquired by the Trust by way of gift, relief under this section shall, subject to paragraphs (c) and (d), be granted in respect of the collection on the basis that Fota House was acquired by the Trust by way of a relevant gift and the collection formed part of the contents of the building.
- (b) The collection referred to in this paragraph (in this subsection referred to as the ‘collection’) is a collection—
- (i) of either or both Irish paintings and furniture which was displayed in Fota House in the period 1983 to 1990,
 - (ii) which is to be housed by the Trust in Fota House, and
 - (iii) in respect of which the Minister, after consulting with such person (if any) in the matter as the Minister may deem to be necessary, is satisfied that the collection is important to establishing the aesthetic context of Fota House.

- (c) This subsection shall not apply unless the collection is gifted to the Trust before the end of 2007.
- (d) Relief under this section, in respect of the market value of the collection as determined in accordance with subsection (3), shall, where this subsection applies, be granted to the person making the gift to the Trust of the collection, notwithstanding that that person is not the person from whom Fota House was acquired by the Trust.”.

(2) Section 1003A of the Principal Act, as amended by *subsection (1)*, applies as respects the year of assessment 2007 as if in subsection (2)(d) “€10,000,000” were substituted for “€6,000,000”.

123.—The Principal Act is amended in Part 38—

Amendment of Part 38 (returns of income and gains, other obligations and returns, and revenue powers) of Principal Act.

(a) in section 888—

- (i) in subsection (2)(e) by inserting the following after subparagraph (ii):

“(iia) the tax reference number of every such person,”,

and

- (ii) by inserting the following after subsection (2):

“(3) (a) In this section ‘tax reference number’ means—

- (i) in the case of an individual, the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005, and
- (ii) in the case of any other person, the reference number stated on any return form of income or profits, or notice of assessment, issued to that person by the Revenue Commissioners.

- (b) Where a payment, either in the nature of or for the purpose of rent or rent subsidy in relation to any premises, is to be made by any body referred to in subsection (2)(e), that body shall request from every person to whom that premises belongs that the person furnish to the body—

- (i) the person’s tax reference number, or
- (ii) where the person does not have a tax reference number, confirmation to that effect,

before the day on which the payment is to be made.

- (c) A person to whom paragraph (b) relates shall comply with the request in a manner so as to enable the body to have that information before the day the payment is to be made.
- (d) Where in making a return for the purposes of subsection (2)(e), the body is unable to provide the information required by subparagraph (iia) of that subsection in respect of a person because the person failed to furnish the information in accordance with paragraph (b), then the body shall, unless it can otherwise duly provide the information, state that it cannot provide the information so required.”
- (b) in section 898A by deleting “the Revenue Commissioners may require.” and substituting “the Revenue Commissioners may require and in the case of such returns or information referred to in paragraphs (d) and (e) of section 888(2) and in sections 891, 892 and 898, where the Revenue Commissioners so require, in an electronic format approved by them.”,
- (c) in section 910 by inserting the following after subsection (2):
- “(3) Where information is to be provided to the Revenue Commissioners in accordance with subsection (1) it shall be provided, where the Revenue Commissioners so require, in an electronic format approved by them.”,
- and
- (d) in section 914 by inserting the following after subsection (7):
- “(8) Where a return is required to be made under this section, it shall be made, where the Revenue Commissioners so require, in an electronic format approved by the Revenue Commissioners.”.

Amendment of Chapter 4 (revenue powers) of Part 38 of Principal Act.

124.—The Principal Act is amended in Chapter 4 of Part 38—

- (a) in section 905(2)—
- (i) by substituting the following for paragraph (e):
- “(e) An authorised officer shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by the officer of a warrant issued under subsection (2A).”,
- and
- (ii) by deleting paragraph (f),

- (b) in section 905(2A)(c) by deleting “or for the purpose of any criminal proceedings”, and
- (c) by inserting the following after section 908B:

“Search
warrants.

908C.—(1) In this section—

‘the Acts’ means the Waiver of Certain Tax, Interest and Penalties Act 1993 together with the meaning assigned to it in section 1078(1);

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘commission’, in relation to an offence, includes an attempt to commit the offence;

‘computer’ includes any electronic device capable of performing logical or arithmetical operations on data in accordance with a set of instructions;

‘computer at the place which is being searched’, includes any other computer, whether at that place or at any other place, which is lawfully accessible by means of that computer;

‘information in non-legible form’ means information which is kept (by electronic means or otherwise) on microfilm, microfiche, magnetic tape or disk or in any other non-legible form;

‘material’ means any books, documents, records or other things (including a computer);

‘offence’ means an offence under the Acts;

‘place’ includes any building (or part of a building), dwelling, vehicle, vessel, aircraft or hovercraft and any other place whatsoever;

‘record’ includes any information in non-legible form which is capable of being reproduced in a permanently legible form.

(2) If a judge of the District Court is satisfied by information given on oath by an authorised officer that there are reasonable grounds for suspecting—

- (a) that an offence is being, has been or is about to be committed, and
- (b) (i) that material which is likely to be of value (whether by

itself or together with other information) to the investigation of the offence, or

- (ii) that evidence of, or relating to the commission of, the offence,

is to be found in any place,

the judge may issue a warrant for the search of that place, and of any thing and any persons, found there.

(3) A warrant issued under this section shall be expressed and shall operate to authorise the authorised officer, accompanied by such other named officers of the Revenue Commissioners and such other named persons as the authorised officer considers necessary—

- (a) to enter, at any time or times within one month from the date of issuing of the warrant (if necessary by the use of reasonable force), the place named in the warrant,
- (b) to search, or cause to be searched, that place and any thing and any persons, found there, but no person shall be searched except by a person of the same sex unless express or implied consent is given,
- (c) to require any person found there—
 - (i) to give his or her name, home address and occupation to the authorised officer, and
 - (ii) to produce to the authorised officer any material which is in the custody or possession of that person,
- (d) to examine, seize and retain (or cause to be examined, seized and retained) any material found there, or in the possession of a person present there at the time of the search, which the authorised officer reasonably believes—
 - (i) is likely to be of value (whether by itself or together with other

information) to the investigation of the offence, or

(ii) to be evidence of, or relating to the commission of, the offence, and

(e) to take any other steps which may appear to the authorised officer to be necessary for preserving any such material and preventing interference with it.

(4) The authority conferred by subsection (3)(d) to seize and retain (or to cause to be seized and retained) any material includes—

(a) in the case of books, documents or records, authority to make and retain a copy of the books, documents or records, and

(b) where necessary, authority to seize and, for as long as necessary, retain, any computer or other storage medium in which records are kept and to copy such records.

(5) An authorised officer acting under the authority of a warrant issued under this section may—

(a) operate any computer at the place which is being searched or cause any such computer to be operated by a person accompanying the authorised officer, and

(b) require any person at that place who appears to the authorised officer to be in a position to facilitate access to the information held in any such computer or which can be accessed by the use of that computer—

(i) to give to the authorised officer any password necessary to operate it,

(ii) otherwise to enable the authorised officer to examine the information accessible by the computer in a form in which the information is visible and legible, or

(iii) to produce the information in a form in which it can be

removed and in which it is,
or can be made, visible
and legible.

- (6) A person who—
- (a) obstructs or attempts to obstruct the exercise of a right of entry and search conferred by virtue of a warrant issued under this section,
 - (b) obstructs the exercise of a right so conferred to examine, seize and retain material,
 - (c) fails to comply with a requirement under subsection (3)(c) or gives to the authorised officer a name, address or occupation that is false or misleading, or
 - (d) fails to comply with a requirement under subsection (5)(b),

is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(7) Where an authorised officer enters, or attempts to enter, any place in the execution of a warrant issued under subsection (2), the authorised officer may be accompanied by a member or members of the Garda Síochána, and any such member may arrest without warrant any person who is committing an offence under subsection (6) or whom the member suspects, with reasonable cause, of having done so.

(8) Any material which is seized under subsection (3) which is required for the purposes of any legal proceedings by an officer of the Revenue Commissioners or for the purpose of any criminal proceedings, may be retained for so long as it is reasonably required for the purposes aforesaid.

Order to
produce
evidential
material.

908D.—(1) In this section—

‘the Acts’ means the Waiver of Certain Tax, Interest and Penalties Act 1993 together with the meaning assigned to it in section 1078(1);

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘commission’, in relation to an offence, includes an attempt to commit the offence;

‘computer’ includes any electronic device capable of performing logical or arithmetical operations on data in accordance with a set of instructions;

‘information in non-legible form’ means information which is kept (by electronic means or otherwise) on microfilm, microfiche, magnetic tape or disk or in any other non-legible form;

‘material’ means any books, documents, records or other things (including a computer);

‘offence’ means an offence under the Acts;

‘record’ includes any information in non-legible form which is capable of being reproduced in a permanently legible form.

(2) If a judge of the District Court is satisfied by information given on oath by an authorised officer that there are reasonable grounds for suspecting—

(a) that an offence is being, has been or is about to be committed, and

(b) that material—

(i) which is likely to be of value (whether by itself or together with other information) to the investigation of the offence, or

(ii) which constitutes evidence of, or relating to the commission of, the offence,

is in the possession or control of a person specified in the application,

the judge may order that the person shall—

(I) produce the material to the authorised officer for the authorised officer to take away, or

(II) give the authorised officer access to it,

either immediately or within such period as the order may specify.

(3) Where the material consists of or includes records contained in a computer,

the order shall have effect as an order to produce the records, or to give access to them, in a form in which they are visible and legible and in which they can be taken away.

(4) An order under this section—

(a) in so far as it may empower an authorised officer to take away books, documents or records, or to be given access to them, shall also have effect as an order empowering the authorised officer to take away a copy of the books, documents or, as the case may be, records (and for that purpose the authorised officer may, if necessary, make a copy of them),

(b) shall not confer any right to production of, or access to, any document subject to legal privilege, and

(c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(5) Any material taken away by an authorised officer under this section may be retained by the authorised officer for use as evidence in any criminal proceedings.

(6) (a) Information contained in books, documents or records which were produced to an authorised officer, or to which an authorised officer was given access, in accordance with an order under this section, shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible unless the information—

(i) is privileged from disclosure in such proceedings,

(ii) was supplied by a person who would not be compellable to give evidence at the instance of the prosecution,

(iii) was compiled for the purposes of, or in contemplation of, any—

- (I) criminal investigation,
- (II) investigation or inquiry carried out pursuant to or under any enactment,
- (III) civil or criminal proceedings, or
- (IV) proceedings of a disciplinary nature,

or unless the requirements of the provisions mentioned in paragraph (b) are not complied with.

(b) References in sections 7 (notice of documentary evidence to be served on accused), 8 (admission and weight of documentary evidence) and 9 (admissibility of evidence as to credibility of supplier of information) of the Criminal Evidence Act 1992 to a document or information contained in it shall be construed as including references to books, documents and records mentioned in paragraph (a) and the information contained in them, and those provisions shall have effect accordingly with any necessary modifications.

(7) A judge of the District Court may, on the application of an authorised officer, or of any person to whom an order under this section relates, vary or discharge the order.

(8) A person who without reasonable excuse fails or refuses to comply with an order under this section is guilty of an offence and liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.”.

125.—Section 1003 of the Principal Act is amended in subsection (1)(a)—

(a) in the definition of “approved body” by inserting the following after subparagraph (iv):

“(iva) the Crawford Art Gallery Cork Limited.”,

and

Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.

(b) in the definition of “selection committee” by inserting the following after subparagraph (vi):

“(via) the Director of the Crawford Art Gallery Cork Limited.”.

Amendment of section 1078 (revenue offences) of Principal Act.

126.—Section 1078 of the Principal Act is amended by inserting the following after subsection (1A):

“(1B) A person is guilty of an offence under this section if he or she, with the intention to deceive—

(a) purports to be, or

(b) makes any statement, or otherwise acts in a manner, that would lead another person to believe that he or she is,

an officer of the Revenue Commissioners.”.

Customs Acts: designation of secure premises for keeping of detained or seized goods.

127.—Any thing detained or seized under the Customs Acts may, in addition to being duly kept by an officer of the Revenue Commissioners, also be kept in any secure premises or place designated by the Revenue Commissioners for such purpose, and the Revenue Commissioners may designate a premises or place under the control of a person contracted to them for such purpose.

Miscellaneous technical amendments in relation to tax.

128.—The enactments specified in *Schedule 4*—

(a) are amended to the extent and in the manner specified in *paragraphs 1 to 5* of that Schedule, and

(b) apply and come into operation in accordance with *paragraph 6* of that Schedule.

Care and management of taxes and duties.

129.—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

130.—(1) This Act may be cited as the Finance Act 2007.

(2) *Part 1* shall be construed together with—

(a) in so far as it relates to income tax, the Income Tax Acts,

(b) in so far as it relates to corporation tax, the Corporation Tax Acts, and

(c) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2* in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts 1972 to 2006 and may be cited together with those Acts as the Value-Added Tax Acts 1972 to 2007.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

(6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(7) *Part 6* shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part.

(8) *Part 7* in so far as it relates to—

- (a) income tax, shall be construed together with the Income Tax Acts,
- (b) corporation tax, shall be construed together with the Corporation Tax Acts,
- (c) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
- (d) customs, shall be construed together with the Customs Acts,
- (e) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,
- (f) value-added tax, shall be construed together with the Value-Added Tax Acts 1972 to 2007,
- (g) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
- (h) residential property tax, shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part, and
- (i) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(9) Except where otherwise expressly provided in *Part 1*, that Part is deemed to have come into force and takes effect as on and from 1 January 2007.

(10) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Section 3.

SCHEDULE 1

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX
CREDITS

As respects the year of assessment 2007 and subsequent years of assessment, the Taxes Consolidation Act 1997 is amended as follows:

- (a) in section 461, by substituting “€3,520” for “€3,260”, in both places where it occurs, and “€1,760” for “€1,630”;
- (b) in section 461A, by substituting “€550” for “€500”;
- (c) in section 462, by substituting “€1,760” for “€1,630” in subsection (2);
- (d) in section 463, by substituting “€3,750”, “€3,250”, “€2,750”, “€2,250” and “€1,750” respectively for “€3,100”, “€2,600”, “€2,100”, “€1,600” and “€1,100” in subsection (2);
- (e) in section 464, by substituting “€550” and “€275”, respectively for “€500” and “€250”;
- (f) in section 465, by substituting “€3,000” for “€1,500” in subsection (1);
- (g) in section 468, by substituting “€1,760” and “€3,520”, respectively for “€1,500” and “€3,000” in subsection (2); and
- (h) in section 472, by substituting “€1,760” for “€1,490”, in both places where it occurs, in subsection (4).

Section 35.

SCHEDULE 2

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO
ARRANGEMENTS FOR RELIEF FROM DOUBLE TAXATION

1. The Taxes Consolidation Act 1997 is amended in accordance with the following provisions:

- (a) in section 23A(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;
- (b) in section 29A(4) by substituting “section 826(1)” for “section 826(1)(a)”;
- (c) in section 44(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;
- (d) in section 130(3)(d) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant Member State”;
- (e) in section 153(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;
- (f) in section 172A(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;

(g) in section 198(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(h) in section 222(1)(b) by substituting “section 826(1)” for “section 826(1)(a)” in both places where it occurs;

(i) in section 246(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;

(j) in section 267G(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(k) in section 410(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant Member State”;

(l) in section 411(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant Member State”;

(m) in section 430—

(i) in subsection (1)(da) by substituting “section 826(1)” for “section 826(1)(a)”, and

(ii) in subsection (2A) by substituting “section 826(1)” for “section 826(1)(a)”;

(n) in section 452(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(o) in section 481(2C)(b) by substituting “section 826(1)” for “section 826(1)(a)”;

(p) in section 530(4) by substituting “section 826(1)” for “section 826(1)(a)”;

(q) in section 579B(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(r) in section 613(6) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(s) in section 616(7) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant Member State”;

(t) in section 626B(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;

(u) in section 627(2)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant territory”;

(v) in section 630 by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “bilateral agreement”;

(w) in section 690(2) by substituting “section 826(1)” for “section 826(1)(a)” in both places where it occurs;

(x) in section 730H(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “offshore state”;

(y) in section 747B(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “offshore state”;

(z) in section 787M(1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “resident”;

(aa) in section 817C(3) by substituting “section 826(1),” for “section 826(1)(a),”;

(ab) in section 825A—

(i) in subsection (1) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “qualifying employment”, and

(ii) in subsection (3)(b) by substituting “section 826(1)” for “section 826(1)(a)”;

(ac) in section 829(2) by substituting “section 826(1)” for “section 826(1)(a)”;

(ad) in section 830(2) by substituting “section 826(1)” for “section 826(1)(a)”;

(ae) in section 831(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”;

(af) in section 865(1)(a) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “correlative adjustment”;

(ag) in section 917B by substituting “section 826(1)” for “section 826(1)(a)” in subsection (1);

(ah) in Schedule 24—

(i) in paragraph 1(1)—

(I) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “arrangements”, and

(II) by substituting “section 826(1)” for “section 826(1)(a)” in the definition of “relevant Member State”,

and

- (ii) in paragraph 5(2) by substituting “section 826(1)” for “section 826(1)(a)”.

2. *Paragraph 1* has effect as on and from the passing of this Act.

SCHEDULE 3

Section 97.

MISCELLANEOUS AMENDMENTS RELATING TO COUNCIL DIRECTIVE 2006/112/EC

Amendment of Value-Added Tax Act 1972

Provision of Principal Act	Words to be replaced	Words to be inserted
Section 1(1) in the definition of “Community”	Article 3 of the Council Directive No. 77/388/EEC of 17 May 1977 (as last amended by Council Directive No. 92/111/EEC of 14 December 1992)	Articles 5 to 8 of Council Directive No. 2006/112/EC of 28 November 2006 ⁶
Section 1(1) in the definition of “importation of goods”	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 1(1) in the definition of “a person registered for value-added tax”	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 1(2A)	Article 3 (inserted by Council Directive No. 91/680/EEC of 16 December 1991) of Council Directive No. 77/388/EEC of 17 May 1977	Articles 5 to 8 of the Council Directive No. 2006/112/EC of 28 November 2006
Section 3(6)(d)(B)	Article 28b.B(2) (inserted by Council Directive No. 91/680/EEC of 16 December 1991) of Council Directive No. 77/388/EEC of 17 May 1977	Article 34 of Council Directive No. 2006/112/EC of 28 November 2006
Section 3A(1A)	Council Directive No. 77/388/EEC of 17 May 1977 in the Member State of dispatch under the provisions implementing Article 26a or 28o (inserted by Council Directive No. 94/5/EC of 14 February 1994) of that Directive in that Member State	Council Directive No. 2006/112/EC of 28 November 2006 in the Member State of dispatch under the provisions implementing Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 341 of that Directive in that Member State
Section 3A(2)(b)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 3A(4)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006

⁶OJ No. L 347 of 11 December 2006, p.1

Provision of Principal Act	Words to be replaced	Words to be inserted
Section 5(3A)	Community Council Directive No. 77/388/EEC	Council Directive No. 2006/112/EC of 28 November 2006
Section 5(6)(e)(iiia)	Council Directive No. 77/388/EEC of 17 May 1977 is not payable in that Member State because the recipient held himself out or allowed himself to be held out as a taxable person within the meaning of Article 4 of that Directive	Council Directive No. 2006/112/EC of 28 November 2006 is not payable in that Member State because the recipient held himself out or allowed himself to be held out as a taxable person within the meaning of Article 9(1) and Articles 10 to 13 of that Directive
Section 5(6)(e)(iv)(II)	Community Council Directive No. 77/388/EEC	Council Directive No. 2006/112/EC of 28 November 2006
Section 5A(1) in the definition of “electronic services scheme”	Article 26c of Council Directive No. 77/388/EEC of 17 May 1977	Articles 358 to 369 of Council Directive No. 2006/112/EC of 28 November 2006
Section 5A(1) in the definition of “EU value-added tax”	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 5A(1) in the definition of “Member State of consumption”	Article 9(2)(f) of Council Directive No. 77/388/EEC of 17 May 1977	Article 57(1) of Council Directive No. 2006/112/EC of 28 November 2006
Section 5A(6)(b)	Article 9(2)(f) of Council Directive No. 77/388/EEC of 17 May 1977	Article 57(1) of Council Directive No. 2006/112/EC of 28 November 2006
Section 8(9) in the definition of “Annex A activity”	Annex A (which is set out in Part I of the Fifth Schedule) of Council Directive No. 77/388/EEC of 17 May 1977	Article 295(1) and Annex VII of Council Directive No. 2006/112/EC of 28 November 2006
Section 8(9) in the definition of “Annex B service”	Annex B (which is set out in Part II of the Fifth Schedule) of the said Council Directive	Article 295(1) and Annex VIII of the said Council Directive
Section 10(5A)(b)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 10(7A)(b)	Article 11A.1.(a) of Council Directive No. 77/388/EEC of 17 May 1977	Article 73 of Council Directive No. 2006/112/EC of 28 November 2006
Section 10A(1)(b)	Article 17 of Council Directive No. 77/388/EEC of 17 May 1977	Articles 167, 173, 176 and 177 of Council Directive No. 2006/112/EC of 28 November 2006
Section 10A(1)(c)	Article 26a (inserted by Council Directive No. 94/5/EC of 14 February 1994) of Council Directive No. 77/388/EEC of 17 May 1977	Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 325 and 333 to 340 of Council Directive No. 2006/112/EC of 28 November 2006

Provision of Principal Act	Words to be replaced	Words to be inserted
Section 10B(1)(b)	Article 17 of Council Directive No. 77/388/EEC of 17 May 1977	Articles 167, 173, 176 and 177 of Council Directive No. 2006/112/EC of 28 November 2006
Section 10B(1)(c)	Article 26a (inserted by Council Directive No. 94/5/EC of 14 February 1994) of Council Directive No. 77/388/EEC of 17 May 1977	Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 325 and 333 to 340 of Council Directive No. 2006/112/EC of 28 November 2006
Section 12B(2)(b)	Article 17 of Council Directive No. 77/388/EEC of 17 May 1977	Articles 167, 173, 176 and 177 of Council Directive No. 2006/112/EC of 28 November 2006
Section 12B(2)(d)	Article 26a or 28o (inserted by Council Directive No. 94/5/EC of 14 February 1994) of Council Directive No. 77/388/EEC of 17 May 1977	Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 341 of Council Directive No. 2006/112/EC of 28 November 2006
Section 12B(4) in paragraph (b) of the meaning given to "B"	Article 12(1) of Council Directive No. 77/388/EEC of 17 May 1977	Article 93 of Council Directive No. 2006/112/EC of 28 November 2006
Section 12B(6)(b)	Article 26a or 28o of Council Directive No. 77/388/EEC of 17 May 1977	Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 341 of Council Directive No. 2006/112/EC of 28 November 2006
Section 15(5A) proviso	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 15B(1)(b)(ii)	clauses (a), (b), (c) and (d) of subparagraph B of paragraph 1 of Article 16, of Council Directive No. 77/388/EEC of 17 May 1977	Article 156(1) of Council Directive No. 2006/112/EC of 28 November 2006
Section 17(1)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 27(4A)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 27(9A)(1)(b)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 27(9A)(4)(d)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Section 32(2B)(a)	Council Directive No. 77/388/EEC of 17 May 1977	Council Directive No. 2006/112/EC of 28 November 2006
Fifth Schedule PART I Title	PART I Annex A of Council Directive No. 77/388/EEC of 17 May 1977	PART I Article 295(1) and Annex VII of Council Directive No. 2006/112/EC of 28 November 2006

Provision of Principal Act	Words to be replaced	Words to be inserted
Fifth Schedule PART II Title	PART II Annex B of Council Directive No. 77/388/EEC of 17 May 1977	PART II Article 295(1) and Annex VIII of Council Directive No. 2006/112/EC of 28 November 2006

Section 128.

SCHEDULE 4

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended in accordance with the following provisions:

(a) in section 21A(4A) by substituting the following for paragraph (ii):

“(ii) the company made a claim for relief under Part 14.”;

(b) in section 97(2F)(a)(v)(II) by substituting “section 198 of the Social Welfare Consolidation Act 2005,” for “section 179 of the Social Welfare (Consolidation) Act, 1993,”;

(c) in section 194 by substituting “Part 4 of the Social Welfare Consolidation Act 2005,” for “Part IV of the Social Welfare (Consolidation) Act, 1993,”;

(d) in section 200(2)(a) by substituting “Chapter 15, 18 or 19 of Part 2 of, or Chapter 4 or 6 of Part 3 of, the Social Welfare Consolidation Act 2005,” for “Chapter 12, 16 or 17 of Part II of, or Chapter 4 or 6 of Part III of, the Social Welfare (Consolidation) Act, 1993,”;

(e) in section 201(2A)(b) (inserted by the Finance Act 2005) by substituting “section 262 of the Social Welfare Consolidation Act 2005” for “section 223 of the Social Welfare (Consolidation) Act 1993”;

(f) in section 206—

(i) by substituting “Social Welfare Consolidation Act 2005” for “Social Welfare (Consolidation) Act, 1993”, and

(ii) by substituting “section 9” for “section 7”;

(g) in section 396B(1) in paragraph (b) of the definition of “relevant corporation tax” by deleting “of the Principal Act”;

(h) in section 402(3)(a) by substituting “sections 396, 396A and 397” for “sections 396 and 397”;

(i) in section 403(1)(d) by deleting the following as part of subparagraph (ii) and inserting it at the end of paragraph (d) of section 403(1) as part of that paragraph:

“then, subject to section 80A(2)(c), income from the company’s trade of leasing shall be treated as including—

- (A) income from the activities referred to in subparagraph (ii), and
 - (B) chargeable gains on the disposal of machinery or plant acquired by the company in the course of its leasing trade; and for this purpose the amount of such a gain shall be computed without regard to any adjustment made under section 556(2).”;
- (j) in section 404(1)(b)(iv) by substituting “shall be treated as if they were separate accounting periods, and” for “shall be treated as if they were separate accounting periods.”;
- (k) in section 420B(1) in paragraph (b) of the definition of “relevant corporation tax” by deleting “of the Principal Act”;
- (l) in section 466(1) by substituting “Social Welfare Consolidation Act 2005,” for “Social Welfare (Consolidation) Act, 1993.”;
- (m) in section 466A—
- (i) in subsection (1), in paragraph (a) of the definition of “dependent person” by substituting “Part 4 of the Social Welfare Consolidation Act 2005,” for “Part IV of the Social Welfare (Consolidation) Act, 1993,” and
 - (ii) in subsection (6)(b)—
 - (I) in subparagraph (i) by substituting “Chapter 14 of Part 2 of the Social Welfare Consolidation Act 2005,” for “Chapter 11A (inserted by the Social Welfare Act, 2000) of Part II of the Social Welfare (Consolidation) Act, 1993,” and
 - (II) in subparagraph (ii) by substituting “Chapter 8 of Part 3 of that Act.” for “Chapter 10 of Part III of that Act.”;
- (n) in section 470A, in the definition of “PPS Number” in subsection (1) (inserted by the Finance Act 2001), by substituting “section 262 of the Social Welfare Consolidation Act 2005;” for “section 223 of the Social Welfare (Consolidation) Act, 1993;”;
- (o) in section 472(1)(a), in the definition of “specified employed contributor”—
- (i) by substituting “Social Welfare Consolidation Act 2005,” for “Social Welfare (Consolidation) Act, 1993,” and
 - (ii) in subparagraph (i) by substituting “section 12(1)(b) of that Act,” for “section 9(1)(b) of that Act.”;
- (p) in section 472A(1)—

(i) in paragraph (a)—

(I) by substituting “ ‘the Act of 2005’ means the Social Welfare Consolidation Act 2005;” for “ ‘the Act of 1993’ means the Social Welfare (Consolidation) Act, 1993;”,

(II) in the definition of “continuous period of unemployment” by substituting “section 141(3) of the Act of 2005;” for “section 120(3) of the Act of 1993;”, and

(III) in the definition of “qualifying individual”—

(A) in subparagraph (i)(I)(A) by substituting “Chapter 12 of Part 2 of the Act of 2005,” for “Chapter 9 of Part II of the Act of 1993;”,

(B) in subparagraph (i)(I)(B) by substituting “Chapter 2 of Part 3 of the Act of 2005,” for “Chapter 2 of Part III of the Act of 1993;”, and

(C) in subparagraph (i)(I)(C) by substituting “Chapter 7 of Part 3 of the Act of 2005,” for “Chapter 9 of Part III of the Act of 1993;”,

and

(ii) in paragraph (b)(i)(IV) by substituting “paragraph (h) or (i), respectively, of section 141(6) of the Social Welfare Consolidation Act 2005,” for “paragraph (g) or (h), respectively, of section 120(5) of the Social Welfare (Consolidation) Act, 1993;”,

(q) in section 511 in subsection (1)(a)(ii) and paragraphs (a)(ii)(II) and (b)(iii)(II) of subsection (3) by substituting “Social Welfare Consolidation Act 2005” for “Social Welfare (Consolidation) Act, 1993”, in each place where it occurs;

(r) in section 527(3)(c) by substituting “Social Welfare Consolidation Act 2005,” for “Social Welfare (Consolidation) Act, 1993;”,

(s) in section 697A(1) (inserted by the Finance Act 2002), in the definition of “tonnage tax activities”, by substituting “paragraphs (a) to (g) and paragraphs (i) and (j)” for “paragraphs (a) to (j) and paragraph (m)”;

(t) in section 697K(3) (inserted by the Finance Act 2002) by substituting “section 697H.” for “sections 697H and 697I or to income that is relevant shipping income by virtue of paragraph (m) of the definition of “relevant shipping income”.”;

(u) in section 730E(3A)(e) (inserted by the Finance Act 2001) by substituting “section 262 of the Social Welfare Consolidation Act 2005” for “section 223 of the Social Welfare (Consolidation) Act, 1993”;

- (v) in section 730G (inserted by the Finance Act 2000) by substituting the following for subsection (5):

“(5) Where—

(a) any item has been incorrectly included in a return as appropriate tax, the inspector may make such assessments, adjustments or set-offs as may in his or her judgement be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the assurance company making the return or of any other person, are in so far as possible the same as they would have been if the item had not been included, or

(b) any item has been correctly included in a return, but within one year of the making of the return the assurance company proves to the satisfaction of the Revenue Commissioners that it is just and reasonable that an amount of appropriate tax (included in the return) which has been paid, should be repaid to the assurance company, such amount may be repaid to the assurance company.”;

- (w) in section 739F(5)(a) (inserted by the Finance Act 2001) by substituting “liabilities to tax” for “liabilities”;
- (x) in section 771(1) by substituting “Social Welfare Consolidation Act 2005,” for “Social Welfare (Consolidation) Act, 1993.”;
- (y) in section 784C(4)(b) by substituting “Social Welfare Consolidation Act 2005,” for “Social Welfare (Consolidation) Act, 1993.”;
- (z) in section 787A, in the definition of “PPS Number” in subsection (1) (inserted by the Pensions (Amendment) Act, 2002), by substituting “section 262 of the Social Welfare Consolidation Act 2005;” for “section 223 of the Social Welfare (Consolidation) Act, 1993.”;
- (aa) in section 787M, in the definition of “PPS Number” in subsection (1) (inserted by the Finance Act 2005), by substituting “section 262 of the Social Welfare Consolidation Act 2005;” for “section 223 of the Social Welfare (Consolidation) Act 1993.”;
- (ab) in section 848AE(1)(e) by substituting “section 848AG” for “section 848G”;
- (ac) in section 848B, in the definition of “PPS Number” in subsection (1) (inserted by the Finance Act 2001), by substituting “section 262 of the Social Welfare Consolidation Act 2005;” for “section 223 of the Social Welfare (Consolidation) Act, 1993.”;
- (ad) in section 862 by substituting “a Second Secretary General” for “a Deputy Secretary”;
- (ae) in section 898B, in the definition of “PPS number” in subsection (1) (inserted by the Finance Act 2004), by substituting “section 262 of the Social Welfare Consolidation Act 2005;” for “section 223 of the Social Welfare (Consolidation) Act 1993.”;

(af) in section 898N (inserted by the Finance Act 2004)—

(i) in subsection (2) by substituting “return” for “report”, and

(ii) in subsection (4) by substituting “return” for “report” in both places where it occurs;

(ag) in section 934(2)(a) by substituting the following for subparagraph (ii):

“(ii) any person who has been admitted a member of the Irish Taxation Institute.”;

(ah) in Schedule 2, in paragraph 14(1) of Part 4—

(i) by substituting “the appropriate officer” for “the inspector”, and

(ii) by substituting “officer” for “inspector”;

and

(ai) in Schedule 12A, in the definition of “specified age” in paragraph 1(1), by substituting “Social Welfare Consolidation Act 2005” for “Social Welfare (Consolidation) Act, 1993”.

2. The Capital Acquisitions Tax Consolidation Act 2003 is amended in accordance with the following provisions:

(a) in section 25—

(i) in subsection (1) by substituting “section 46(2)” for “section 21(e)”, and

(ii) in subsection (2) by substituting “section 46(2)” for “section 21(e)”;

(b) in section 45A(4)(a) by deleting “section 21(e) or”; and

(c) in section 49(6A)(b) by deleting “a return within the meaning of section 21(e) or”.

3. The Value-Added Tax Act 1972 is amended in section 11(3)(c)(iii) by substituting “relatively small amount” for “minimum amount”.

4. Chapter 1 of Part 2 of the Finance Act 1999 is amended in section 94(1), in the definition of “producing”, by substituting “subjecting to a specific process within the meaning of Additional Note 4 to Chapter 27 of the combined nomenclature (as referred to in paragraph 5 of Article 2 of the Directive)” for “subjecting to a specific process within the meaning of paragraph 1 of Article 5 of the Directive”.

5. The Finance Act 2001 is amended—

(a) in section 96 (as amended by the Finance Act 2005), in the definition of “tobacco products” by substituting “paragraph (c)” for “paragraph (b)”, and

(b) in section 124A (inserted by the Finance Act 2003), in subsection (1)(b)(ii) (as amended by the Finance Act 2004), by substituting “Chapter 3 of Part 2 of the Finance Act 2005” for “the Finance (Excise Duty on Tobacco Products) Act 1977”.

6. (a) As respects *paragraph 1*—

(i) *subparagraphs (a), (g) to (k), (s) and (t)* apply to accounting periods ending on or after 1 January 2007,

(ii) *subparagraphs (b) to (f), (l) to (r), (u), (x) to (aa), (ac) to (ae), (ag) and (ai)* have effect as on and from the passing of this Act,

(iii) *subparagraphs (v), (w), (af) and (ah)* have effect as on and from 1 January 2007, and

(iv) *subparagraph (ab)* is deemed to have come into force and have taken effect as on and from 1 January 2006.

(b) *Paragraph 2* is deemed to have come into force and have taken effect as respects the year 2006 and subsequent years.

(c) *Paragraph 3* has effect as on and from the passing of this Act.

(d) *Paragraph 4* is deemed to have come into force and have taken effect as on and from 27 October 2003.

(e) As respects *paragraph 5*—

(i) *subparagraph (a)* is deemed to have come into force and have taken effect as on and from 25 March 2005, and

(ii) *subparagraph (b)* is deemed to have come into force and have taken effect as on and from 1 July 2006.