Number 3 *of* 1998

FINANCE ACT, 1998

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FINANCE ACT, 1998

AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE), TO AMEND THE LAW RELATING TO CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE) AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. [27*th March*, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

Interpretation.

1.—In this Part, ''the Principal Act'' means the Taxes Consolidation Act, 1997.

Chapter 2

Income Tax

Amendment of provisions relating to exemption from income tax.

2.—As respects the year of assessment 1998-99 and subsequent years of assessment, the Principal Act is hereby amended—

(*a*) in section 187, by the substitution, in subsection (1), of ''£8,200'' and ''£4,100'', respectively, for ''£8,000'' and ''£4,000'', and

(*b*) in section 188, by the substitution, in subsection (2)—

(i) of ''£10,000'' and ''£11,000'', respectively, for ''£9,200'' and ''£10,400'', in paragraph (*a*), and

(ii) of ''£5,000'' and ''£5,500'', respectively, for ''£4,600'' and ''£5,200'', in paragraph (*b*),

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and those subsections, as so amended, are set out in the Table to this section.

TABLE

(1) In this section, ''the specified amount'' means, subject to subsection (2)—

(*a*) in a case where the individual would apart from this section be entitled to a deduction specified in section 461(*a*), £8,200, and

(*b*) in any other case, £4,100.

(2) In this section, ''the specified amount'' means, subject to section 187(2)—

(*a*) in a case where the individual would apart from this section be entitled to a deduction specified in section 461(*a*), £10,000; but, if at any time during the year of assessment either the individual or the spouse of the individual was of the age of 75 years or over, ''the specified amount'' means £11,000, and

(*b*) in any other case, £5,000; but, if at any time during the year of assessment the individual was of the age of 75 years or over, ''the specified amount'' means £5,500.

Alteration of rates of income tax.

3.—Section 15 of the Principal Act is hereby amended, as respects the year of assessment 1998-99 and subsequent years of assessment, by the substitution of the following Table for the Table to that section:

''TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £10,000	24 per cent	the standard rate
The remainder	46 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £20,000	24 per cent	the standard rate
The remainder	46 per cent	the higher rate

''.

Personal reliefs.

4.—(1) Where a deduction falls to be made from the total income of an individual for the year of assessment 1998-99 or any subsequent year of assessment in respect of relief to which the individual is entitled under a provision mentioned in *column (1)* of the Table to this subsection and the amount of the deduction would, but for this section, be an amount specified in *column (2)* of the said Table, the amount of the deduction shall, in lieu of being the amount specified in the said *column (2)*, be the amount specified in *column (3)* of the said Table opposite the mention of the amount in the said *column (2)*.

TABLE

Statutory provision (1)	Amount to be deducted from total income for the year 1997-98 (2)	Amount to be deducted from total income for the year 1998-99 and subsequent years (3)
	£	£
Principal Act:		
section 461		
(married person)...	5,800	6,300
(widowed person bereaved in the year of assessment)	5,800	6,300
(widowed person)	3,400	3,650
(single person)	2,900	3,150
section 462		
(additional allowance for widowed persons and others in respect of children)		
(widowed person)	2,400	2,650
(other person)...	2,900	3,150
section 465		
(incapacitated child)	700	800
section 467		
(person employed to take care of an incapacitated person) ...	7,500	8,500
section 468		
(blind person)	700	1,000
(both spouses blind)	1,600	2,000

(2) *Schedule 1* shall apply for the purpose of supplementing *subsection (1)*.

Amendment of section 463 (special allowance for widowed parent following death of spouse) of Principal Act.

5.—As respects the year of assessment 1998-99 and subsequent years of assessment, section 463 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (2):

''(2) Where a claimant proves, in relation to any of the 5 years of assessment immediately following the year of assessment in which the claimant's spouse dies, that—

(*a*) he or she has not remarried before the commencement of the year, and

(*b*) a qualifying child is resident with him or her for the whole or part of the year,

the claimant shall, in respect of each of the years in relation to which the claimant so proves, be entitled, in computing the amount of his or her taxable income, to have a deduction made from his or her total income as follows—

(i) for the first of those 5 years, £5,000,

(ii) for the second of those 5 years, £4,000,

(iii) for the third of those 5 years, £3,000,

(iv) for the fourth of those 5 years, £2,000, and

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(v) for the fifth of those 5 years, £1,000;

but this section shall not apply for any year of assessment in the case of a man and woman living together as man and wife.''.

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

6.—Section 126 of the Principal Act is hereby amended by the substitution, in subsection (8), of the following for paragraph (*b*):

''(*b*) Notwithstanding subsection (3) and the Finance Act, 1992 (Commencement of Section 15) (Unemployment Benefit and Pay-Related Benefit) Order, 1994 (S.I. No. 19 of 1994), subsection (3)(*b*) shall not apply as respects the years of assessment 1997-98 and 1998-99 in relation to unemployment benefit paid or payable to a person employed in short-time employment.''.

Income under dispositions for short periods.

7.—Schedule 32 to the Principal Act is hereby amended, in subparagraph (1) of paragraph 27, by the substitution of ''6th day of April, 2000'' for ''6th day of April, 1998'' and that subparagraph, as so amended, is set out in the Table to this section.

TABLE

(1) Where—

(*a*) the conditions set out in subparagraph (3) are satisfied, and

(*b*) the Revenue Commissioners are satisfied that the application of the amendments to section 439 of the Income Tax Act, 1967, effected by subsections (1) and (2) of section 13 of the Finance Act, 1995, which subsections are re-enacted in subsections (1) and (2) of section 792, would give rise to hardship,

then, those amendments shall not, to the extent that the Revenue Commissioners consider just, apply before the 6th day of April, 2000, in respect of a disposition, to which clause (*a*) of subparagraph (2) applies, by a person (in this paragraph referred to as ''the disponer''), in so far as, by virtue or in consequence of such disposition, income is payable in a year of assessment to or for the benefit of an individual to whom clause (*b*) of subparagraph (2) applies, and accordingly, notwithstanding that section 439 of the Income Tax Act, 1967, as it stood before its amendment by subsections (1) and (2) of section 13 of the Finance Act, 1995, is not re-enacted by this Act, this Act shall apply with any modifications necessary to give effect to this paragraph.

Amendment of section 66 (special basis at commencement of trade or profession) of Principal Act.

8.—As respects the year 1998-99 and subsequent years of assessment, section 66 of the Principal Act is hereby amended by the substitution of the following for subsection (2):

''(2) Any person chargeable with income tax in respect of the profits or gains of any trade or profession which has been set up and commenced within one year preceding the year of assessment shall be charged—

(*a*) if only one account was made up to a date within the year of assessment and that account was for a period of one year, on the full amount of the profits or gains of the year ending on that date,

(*b*) if—

(i) an account, other than an account to which paragraph (*a*) applies, was made up to a date in the year of assessment or more accounts than one

were made up to dates in the year of assessment, and

(ii) the trade or profession was set up and commenced not less than 12 months before the first-mentioned date in subparagraph (i) or, as the case may be, the last of the second-mentioned dates in that subparagraph,

on the full amount of the profits or gains of the year ending on that first-mentioned date or, as the case may be, the last of those second-mentioned dates, or

(*c*) in any other case, on the full amount of the profits or gains of the year of assessment.''.

Amendment of section 191 (taxation treatment of Hepatitis C compensation payments) of Principal Act.

9.—(1) Section 191 of the Principal Act is hereby amended by the substitution of the following for subsections (1) and (2):

''(1) In this section—

'the Act' means the Hepatitis C Compensation Tribunal Act, 1997;

'the Tribunal' means the Tribunal known as the Hepatitis C Compensation Tribunal established under section 3 of the Act.

(2) This section shall apply to any payment in respect of compensation—

(*a*) by the Tribunal in accordance with the Act, or

(*b*) following the institution by or on behalf of a person of a civil action for damages in respect of personal injury,

to a person referred to—

(i) in subsection (1) of section 4 of the Act, in respect of matters referred to in that section, or

(ii) in any regulations made under section 9 of the Act, in respect of matters referred to in those regulations.''.

(2) This section shall apply as on and from the 1st day of November, 1997.

Amendment of section 202 (relief for agreed pay restructuring) of Principal Act.

10.—Section 202 of the Principal Act is hereby amended–

(*a*) in subsection (1)—

(i) by the substitution in paragraph (*a*) of the following definition for the definition of ''relevant agreement'':

'' 'relevant agreement', in relation to a qualifying company, means a collective agreement—

(*a*) that applies to—

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(i) more than 50 per cent of the total number of qualifying employees of the company, or

(ii) more than 75 per cent of a bona fide class or classes of qualifying employees of the company if the number of participating employees in the class or classes, as the case may be, comprises at least 25 per cent of the total number of qualifying employees of the company,

(*b*) that provides amongst other things for—

(i) a substantial reduction in the basic pay of the participating employees to which it relates,

(ii) the payment of the reduced basic pay to the participating employees to which it relates for the duration of the relevant period, and

(iii) the payment to them of a lump sum to compensate for that reduction,

and

(*c*) that is registered with the Labour Relations Commission;'',

and

(ii) by the addition of the following paragraph after paragraph (*b*):

''(*c*) In determining for the purposes of the definition of 'relevant agreement' whether qualifying employees of a qualifying company are comprised in a bona fide class or classes, as the case may be, regard shall be had to matters such as common work practices, skills, established collective bargaining arrangements and the organisational structure and arrangements within the company.'',

and

(*b*) in subsection (2), by the substitution in paragraph (*b*) of the following subparagraphs for subparagraphs (i) and (ii):

''(i) the company is confronted with a substantial adverse change to its competitive environment which will determine its current or continued viability,

(ii) to accommodate that change and maintain its viability, it is necessary for it to enter into a relevant agreement with its qualifying employees, and''.

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Amendment of section 479 (relief for new shares purchased on issue by employees) of Principal Act.

11.—(1) Section 479 of the Principal Act is hereby amended—

(*a*) in subsection (1)(*a*), by the substitution, in paragraph (ii) of the definition of ''eligible shares'', of ''the period of 3 years'' for ''the period of 5 years'',

(*b*) in subsection (3)—

(i) by the substitution of ''the period of 3 years'' for ''the period of 5 years'', and

(ii) by the deletion of the words from ''; but'' to the end of the subsection,

and

(*c*) by the substitution of the following subsection for subsection (5)—

''(5) In relation to shares in respect of which relief has been given under subsection (2) and not withdrawn, any question—

(*a*) as to which (if any) such shares issued to an eligible employee at different times a disposal relates, or

(*b*) as to whether a disposal relates to such shares or to other shares,

shall for the purposes of this section be determined as it would be determined for the purposes of section 498 but without regard to the reference in subsection (4) (as amended by the *Finance Act, 1998*) of that section to subsection (3) of this section.'',

and the said paragraph (ii) and the said subsection (3), as so amended, are set out in the Table to this section.

(2) This section shall come into operation on the 12th day of February, 1998.

TABLE

(ii) throughout the period of 3 years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to the company's assets on its winding up and no present or future preferential right to be redeemed,

(3) Subsection (2) shall not apply as respects any amount subscribed for eligible shares if within the period of 3 years from the date of their acquisition—

(*a*) those shares are disposed of, or

(*b*) the eligible employee who made the subscription receives in respect of those shares any money or money's worth which does not constitute income in his or her hands for the purpose of income tax,

and there shall be made all such assessments, additional assessments or adjustments of assessments as are necessary to withdraw any relief from income tax already given under subsection (2) in respect of the amount subscribed.

Amendment of Chapter 1 (transfer of assets abroad) of Part 33 of Principal Act.

12.—(1) Chapter 1 of Part 33 of the Principal Act is hereby amended—

(*a*) in section 806—

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(i) in subsection (3), by the substitution of ''individuals resident or ordinarily resident in the State'' for ''individuals ordinarily resident in the State'', and

(ii) by the insertion of the following after subsection (5):

''(5A) Nothing in subsection (3) shall be taken to imply that the provisions of subsections (4) and (5) apply only if—

(*a*) the individual in question was resident or ordinarily resident in the State at the time when the transfer was made, or

(*b*) the avoidance of liability to income tax is the purpose, or one of the purposes, for which the transfer was effected.'',

and

(*b*) in section 808, in paragraph (*a*) of subsection (4), by the substitution of ''an individual resident or ordinarily resident in the State'' for ''an individual ordinarily resident in the State''.

(2) This section shall apply irrespective of when the transfer or associated operations took place but shall apply only to income arising on or after the 12th day of February, 1998.

Reduction in income tax for certain income earned outside the State.

13.—The Principal Act is hereby amended by the insertion in Part 34 of the following section after section 825:

''Reduction in income tax for certain income earned outside the State.

825A.—(1) In this section—

'authorised officer' has the same meaning as in section 818;

'proprietary director' has the same meaning as in section 472;

'qualifying employment', in relation to a year of assessment, means an office (including an office of director of a company which would be within the charge to corporation tax if it were resident in the State, and which carries on a trade or profession) or employment which is held—

(*a*) outside the State in a territory with the Government of which arrangements are for the time being in force by virtue of section 826, and

(*b*) for a continuous period of not less than 13 weeks, but excluding any such office or employment—

(i) the emoluments of which are paid out of the revenue of the State,

(ii) with any board, authority or other similar body established in the State by or under statute;

'the specified amount' in relation to an individual means, as respects the year of assessment concerned, the amount of tax for that year determined by the formula—

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

where—

A is the amount of tax which, apart from this section, would be chargeable on the individual for that year of assessment, other than tax charged in accordance with section 16(2), and after taking account of any such reductions in tax as are specified in the provisions referred to in Part 2 of the Table to section 458 but before credit for any foreign tax paid on any income, profits or gains assessed for that year,

B is the total income of the individual for that year but excluding any income, profits or gains from a qualifying employment for that year,

C is the total income of the individual for that year.

(2) This section shall not apply in any case where the income, profits or gains from a qualifying employment are—

(*a*) chargeable to tax in accordance with section 71(3),

(*b*) income, profits or gains to which section 822 applies, or

(*c*) income, profits or gains paid to a proprietary director or to the spouse of that person by a company of which that person is a proprietary director.

(3) Where for any year of assessment an individual resident in the State makes a claim in that behalf to an authorised officer and satisfies that officer that—

(*a*) he or she is in receipt of income, profits or gains from a qualifying employment,

(*b*) the duties of that qualifying employment are performed wholly outside the State in a territory, or territories, with the Government or Governments of which arrangements are for the time being in force by virtue of section 826,

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(*c*) the full amount of the income, profits or gains from that qualifying employment is, under the laws of the territory in which the qualifying employment is held or of the territory or territories in which the duties of the qualifying employment are performed, subject to, and not exempt or otherwise relieved from, the charge to tax,

(*d*) the foreign tax due on that income, profits or gains from that qualifying employment has been paid and not repaid or entitled to be repaid, and

(*e*) during any week in which he or she is absent from the State for the purposes of the performance of the duties of the qualifying employment, he or she is present in the State for at least one day in that week,

he or she shall, where the amount of tax payable in respect of his or her total income for that year would, but for this section, exceed the specified amount, be entitled to have the amount of tax payable reduced to the specified amount.

(4) In determining for the purposes of paragraph (*b*) of subsection (3) whether the duties of a qualifying employment are exercised outside the State, any duties performed in the State, the performance of which is merely incidental to the performance of the duties of the qualifying employment outside the State, shall be treated for the purposes of this section as having been performed outside the State.

(5) This section shall not apply in any case where the income, profits or gains of a qualifying employment are the subject of a claim for relief under—

(*a*) section 472B, or

(*b*) section 823.

(6) Where in any case an individual has the tax payable in respect of his or her total income for a year of assessment reduced in accordance with subsection (3), that individual shall, notwithstanding anything in Part 35, not be entitled to a credit for foreign tax paid on the income, profits or gains from a qualifying employment in that year.

(7) For the purposes of this section, an individual shall be deemed to be present in the State for a day if the individual is present in the State at the end of the day.

(8) Notwithstanding anything in the Tax Acts, the income, profits or gains from a qualifying employment shall for the purposes of this section

be deemed not to include any amounts paid in respect of expenses incurred wholly, exclusively and necessarily in the performance of the duties of the qualifying employment.''.

Seafarer allowance, etc.

14.—(1) The Principal Act is hereby amended—

(*a*) in section 458 by the insertion in Part 1 of the Table to that section after ''Section 472A'' (inserted by this Act) of ''Section 472B'',

(*b*) in Chapter 1 of Part 15 by the insertion after section 472A (inserted by this Act) of the following section:

''Seafarer allowance, etc.

472B.—(1) In this section—

'authorised officer' has the same meaning as in section 818;

'employment' means an office or employment of profit such that any emoluments of the office or employment of profit are to be charged to tax under Schedule D or Schedule E;

'international voyage' means a voyage beginning or ending in a port outside the State;

'Member State' means a member state of the European Communities;

'Member State's Register' shall be construed in accordance with the Annex to the Official Journal of the European Communities (No. C205) of the 5th day of July, 1997;

'qualifying employment' means an employment, being an employment to which this section applies, the duties of which are performed wholly on board a sea–going ship on an international voyage;

'qualifying individual' means an individual who—

(*a*) holds a qualifying employment, and

(*b*) has entered into an agreement (known as 'articles of agreement') with the master of that ship;

'sea-going ship' means a ship which—

(*a*) is registered in a Member State's Register, and

(*b*) is used solely for the trade of carrying by sea passengers or cargo for reward,

but does not include a fishing vessel.

(2) For the purposes of this section—

(*a*) an individual shall be deemed to be absent from the State for a day if the individual is absent from the State at the end of the day, and

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(*b*) a port outside the State shall be deemed to include a mobile or fixed rig, platform or installation of any kind in any maritime area other than an area designated by order under section 2 of the Continental Shelf Act, 1968.

(3) (*a*) Subject to paragraph (*b*), this section shall apply to an employment other than—

(i) an employment the emoluments of which are paid out of the revenue of the State, or

(ii) an employment with any board, authority or other similar body established in the State by or under statute.

(*b*) This section shall not apply in any case where the income from an employment—

(i) is chargeable to tax in accordance with section 71(3), or

(ii) is income to which section 822 applies.

(4) Where for any year of assessment an individual resident in the State makes a claim in that behalf to an authorised officer and satisfies that officer that he or she is a qualifying individual and that he or she was absent from the State for at least 169 days, or such greater number of days as the Minister for Finance, after consultation with the Minister for the Marine and Natural Resources, may from time to time, by order made for the purposes of this subsection, substitute for that number of days (or, as the case may be, for the number of days substituted by the last previous order under this subsection), in that year for the purposes of performing the duties of a qualifying employment, he or she shall be entitled, in computing the amount of his or her taxable income, to have a deduction of £5,000 made from so much, if any, of his or her total income as is attributable to the income, profits or gains from the qualifying employment.

(5) Where, for a year of assessment, an individual claims a deduction under this section, he or she shall not be entitled to a deduction under section 823.

(6) For the purposes of the definition of 'qualifying employment' in this section, any duties of the employment not performed on board a seagoing ship on an international voyage, the performance of which is merely incidental to the performance of the duties of the employment on

board a sea-going ship on an international voyage, shall be treated for the purposes of that definition as having been performed on board the sea-going ship.'',

(*c*) by the insertion in section 823 of the following subsection after subsection (2):

''(2A) (*a*) In this subsection, 'qualifying employment', 'qualifying individual' and 'sea-going ship' have the same meanings, respectively, as in section 472B.

(*b*) Where in any period of at least 14 consecutive days in which a qualifying individual is absent from the State for the purposes of the performance of the duties of a qualifying employment, the sea-going ship on which he or she, in that period, performs those duties—

(i) visits a port in the United Kingdom, and

(ii) also visits a port other than a port in the State or in the United Kingdom,

then subparagraph (ii) of subsection (2)(*b*) shall not apply to the income, profits or gains from the qualifying employment for such period.'',

and

(*d*) by the substitution in section 1024(2)(*a*)(viii) of ''sections 472, 472A and 472B'' for ''section 472''.

(2) *Paragraph (b)* of *subsection (1)* shall come into operation on such day as the Minister for Finance may, by order, appoint.

Notional loans relating to shares, etc.

15.—(1) The Principal Act is hereby amended in Chapter 4 of Part 5 by the insertion of the following section after section 122:

''122A.—(1) In this section—

'acquisition', in relation to shares, includes receipt by way of allotment or assignment;

'connected person' has the same meaning as in section 10;

'emoluments' has the same meaning as in section 113;

'employee' and 'employer' have the same meanings, respectively, assigned to them by section 122;

'employment' has the same meaning as in section 121;

'market value' shall be construed in accordance with section 548;

'preferential loan' has the same meaning as in section 122;

'shares' includes securities within the meaning of section 135 and stock.

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(2) Where an employee, or a person connected with him or her, acquires shares in a company (whether the employing company or not) and those shares are acquired at an under-value in pursuance of a right or opportunity available by reason of his or her employment, he or she shall be deemed to have the benefit of a loan on which no interest is payable (in this section referred to as the 'notional loan') made directly or indirectly to him or her by a person who at the time the loan is made is, or who at a time subsequent to the making of the loan becomes, an employer in relation to the individual and such notional loan shall be deemed to be a preferential loan to which section 122 applies.

(3) This section shall apply, subject to Chapter 1 of Part 17, for a year of assessment in which an individual has, in accordance with subsection (2), a notional loan and in this section—

(*a*) references to shares being acquired at an under-value are references to shares being acquired either without payment for them at the time or being acquired for an amount then paid which is less than the market value of fully paid-up shares of that class (in either case with or without obligation to make payment or further payment at some later time), and

(*b*) any reference, in relation to any shares, to the under-value on acquisition is a reference to the market value of fully paid-up shares of that class less any payment then made for the shares.

(4) The amount initially outstanding of the notional loan shall be so much of the under-value on acquisition as is not chargeable to tax as an emolument of the employee, and—

(*a*) the loan shall remain outstanding until terminated under subsection (5), and

(*b*) payments or further payments made for the shares after the initial acquisition shall go to reduce the amount outstanding of the notional loan.

(5) The notional loan shall terminate on the occurrence of any of the following events—

(*a*) the whole amount of it outstanding is made good by means of payments or further payments made for the shares;

(*b*) the case being one in which the shares were not at the time of acquisition fully paid up, any outstanding or contingent obligation to pay for them is released, transferred or adjusted so as no longer to bind the employee or any person connected with him or her;

(*c*) the shares are so disposed of by surrender or otherwise that neither he nor she nor any such person any longer has a beneficial interest in the shares;

(*d*) the employee dies.

(6) If the notional loan terminates in a manner referred to in subsection (5) (*b*) or (*c*), the provisions of section 122(3) shall apply as if an amount equal to the then outstanding amount of the notional loan had been released or written off from a loan within that section.

(7) Where shares are acquired, whether or not at an undervalue but otherwise as mentioned in subsection (2), and—

(*a*) the shares are subsequently disposed of by surrender or otherwise so that neither the employee nor any person connected with him or her any longer has a beneficial interest in them, and

(*b*) the disposal is for a consideration which exceeds the then market value of the shares,

then, for the year in which the disposal is effected, the outstanding amount of the excess shall be treated as emoluments of the employee's employment and accordingly chargeable to income tax under Schedule D or Schedule E.

(8) If at the time of the event giving rise to a charge by virtue of subsection (6) the employment in question has terminated, that subsection shall apply as if it had not.

(9) No charge arises under subsection (6) by reference to any disposal effected after the death of the employee, whether by his or her personal representatives or otherwise.

(10) This section applies in relation to acquisition and disposal of an interest in shares less than full beneficial ownership (including an interest in the proceeds of sale of part of the shares but not including a share option) as it applies in relation to the acquisition and disposal of shares, subject to the following:

(*a*) reference to the shares acquired shall be construed as reference to the interest in shares acquired,

(*b*) reference to the market value of the shares acquired shall be construed as reference to the proportion corresponding to the size of the interest of the market value of the shares in which the interest subsists,

(*c*) reference to shares of the same class as those acquired shall be construed as reference to shares of the same class as those in which the interest subsists,

(*d*) reference to the market value of fully paid-up shares of that class shall be construed as reference to the proportion of that value corresponding to the size of the interest.

(11) In this section, any reference to payment for shares includes giving any consideration in money or money's worth or making any subscription, whether in pursuance of a legal liability or not.''.

(2) Section 122A, as inserted by this section, shall apply—

(*a*) as regards subsection (2) thereof, as on and from the 4th day of March, 1998, as respects shares acquired (whether before or after that date); but where the shares were acquired before that date, the notional loan referred to in that subsection shall be deemed to have been made on the 4th day of March, 1998, in an amount equal to the amount of that loan outstanding at that date,

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(*b*) as regards subsection (6) thereof, in respect of the termination of a loan on or after the 4th day of March, 1998, and

(*c*) as regards subsection (7) thereof, in respect of a disposal made on or after the 4th day of March, 1998.

Chapter 3

Income Tax, Corporation Tax and Capital Gains Tax

Relief for the long-term unemployed.

16.—The Principal Act is hereby amended—

(*a*) in Chapter 6 of Part 4 by the insertion of the following section after section 88:

''Double deduction in respect of certain emoluments.

88A.—(1) In this section—

'chargeable period' has the same meaning as in section 321(2);

'emoluments', 'employment', 'employment scheme', 'qualifying employment', and 'qualifying individual' have the same meanings, respectively, as in section 472A;

'qualifying period', in relation to a qualifying employment, means the period of 36 months beginning on the date when that employment commences.

(2) (*a*) Where in the computation of the amount of the profits or gains of a trade or profession for a chargeable period, a person is, apart from this section, entitled to a deduction (in this subsection referred to as 'the first-mentioned deduction') on account of—

(i) emoluments payable to a qualifying individual in respect of a qualifying employment, and

(ii) the employer's contribution to the Social Insurance Fund payable, in respect of those emoluments, under the Social Welfare Acts,

that person shall be entitled in that computation to a further deduction (in this subsection referred to as 'the second-mentioned deduction') equal to the amount of the first-mentioned deduction as

respects that qualifying employment.

(*b*) Relief under this section, in respect of a qualifying employment, shall not be granted—

(i) in respect of a second-mentioned deduction which relates to a chargeable period or part of a chargeable period outside the qualifying period in relation to such qualifying employment, or

(ii) if the claimant or the qualifying individual is benefiting, or has benefited, under an employment scheme, whether statutory or otherwise.

(*c*) For the purposes of this section, an activity, programme or course mentioned in section 472A(1)(*b*)(i) shall be deemed not to be an employment scheme.'',

(*b*) in Chapter 1 of Part 15—

(i) in section 458, by the insertion in Part 1 of the Table to that section of ''Section 472A'' after ''Section 472'', and

(ii) by the insertion of the following section after section 472:

''Relief for the long-term unemployed.

472A.—(1) (*a*) In this section—

'director' and 'proprietary director' have the same meanings, respectively, as in section 472;

'emoluments' has the same meaning as in subsection (1)(*a*) of section 472 and, in relation to the exclusions from that definition, subsection (2) of that section shall apply accordingly;

'employment' means an office or employment of profit such that any emoluments of the office or employment

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of profit are to be charged to tax under Schedule E;

'employment scheme' means a scheme or programme which provides for the payment in respect of an employment to an employer or an employee of a grant, subsidy or other such payment funded wholly or mainly, directly or indirectly, by the State or by any board established by statute or by any public or local authority;

'qualifying child', in relation to a claimant and a year of assessment, has the same meaning as in section 462, and the question of whether a child is a qualifying child shall be determined on the same basis as it would be for the purposes of section 462, and subsections (4) and (6) of that section shall apply accordingly;

'qualifying employment' means an employment which—

(i) commences on or after the 6th day of April, 1998,

(ii) is of at least 30 hours duration per week, and

(iii) is capable of lasting at least 12 months,

but does not include—

(I) an employment from which the previous holder was unfairly dismissed,

(II) an employment with a person who, in the 26 weeks immediately prior to the commencement of an employment by

a qualifying individual, has reduced, by way of redundancy, the number of employees in such person's trade or profession, or

(III) an employment in respect of which more than 75 per cent of the emoluments therefrom arise from commissions;

'qualifying individual' means an individual who commences a qualifying employment and who—

(i) (I) immediately prior to the commencement of that qualifying employment has been continuously unemployed within the meaning of section 120(3) of the Social Welfare (Consolidation) Act, 1993, for a period of 312 days and has been in—

(A) receipt of unemployment benefit under Chapter 9 of Part II of that Act,

(B) receipt of unemployment assistance under Chapter 2 of Part III of that Act, or

(C) receipt of one-parent family payment under Chapter 9 of Part III of that Act, or

(II) is in any other special category of persons approved of for the purposes of this section by the Minister for Social, Community and Family Affairs

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with the consent of the Minister for Finance,

and

(ii) was not previously a qualifying individual for the purposes of this section;

'unemployment payment' means a payment of unemployment benefit or unemployment assistance payable under the Social Welfare Acts.

(*b*) For the purposes of the definition of 'qualifying individual'—

(i) any period of—

(I) attendance at a non-craft training course provided or approved of by An Foras Áiseanna Saothair,

(II) participation in a programme administered by An Foras Áiseanna Saothair and known as the Community Employment Scheme,

(III) participation in a programme administered by An Foras Áiseanna Saothair and known as the Job Initiative,

(IV) participation in, or participation in or attendance at, an activity to which paragraph (*g*) or (*h*), respectively, of section 120(5) of the Social Welfare (Consolidation) Act, 1993, relates,

shall be deemed to be a period of unemployment for the purposes of this section, and

(ii) any payment in respect of a period of attendance at, or participation in, an activity,

programme or scheme mentioned in subparagraph (i) shall be deemed to be an unemployment payment for the purposes of this section if the qualifying individual concerned was in receipt of an unemployment payment immediately prior to the commencement of such period.

(2) Subject to the provisions of this section, where an individual proves that he or she is a qualifying individual, he or she shall, in relation to the 3 years of assessment commencing with either—

(*a*) the year of assessment in which a qualifying employment commences, or

(*b*) by election made by him or her in writing to the inspector, the year of assessment following the year of assessment in which the qualifying employment commences,

be entitled, in computing the amount of his or her taxable income, to have a deduction made from so much of his or her total income as is attributable to emoluments from that qualifying employment as follows:

(i) for the first of those 3 years, £3,000,

(ii) for the second of those 3 years, £2,000, and

(iii) for the third of those 3 years, £1,000.

(3) (*a*) Subject to the provisions of paragraphs (*b*) and (*c*), where a qualifying individual who is entitled to a deduction under subsection (2) for one or more of the 3 years of assessment referred to in that subsection proves that, for one or more of those years, a qualifying child is resident with him or her for the whole or part of the year, he or she shall, in respect of each of the 3 years

referred to in subsection (2) in relation to which he or she so proves, be entitled, in computing the amount of his or her taxable income, to have a deduction made from so much of his or her total income as is attributable to emoluments from the qualifying employment as follows:

(i) for the first of those 3 years, £1,000 in respect of each qualifying child,

(ii) for the second of those 3 years, £666 in respect of each qualifying child, and

(iii) for the third of those 3 years, £334 in respect of each qualifying child.

(*b*) Only one deduction of £1,000, £666 and £334 shall be allowed in respect of each qualifying child.

(*c*) Where for a year of assessment, 2 or more qualifying individuals would but for this paragraph be entitled under this section to relief in respect of the same qualifying child, the following provisions shall apply:

(i) the amount of the deduction to be granted for that year in respect of the qualifying child will be the amount due under paragraph (*a*) subject to the provisions of paragraph (*b*),

(ii) where the qualifying child is maintained by only one of the qualifying individuals concerned, that individual shall be entitled to claim the deduction,

(iii) where the qualifying child is maintained jointly by one or more

qualifying individuals, the deduction due for the year of assessment in respect of the child shall be apportioned between the qualifying individuals who contribute to the maintenance of the child—

(I) in the same proportion as each maintains the child, or

(II) in such manner as they jointly notify in writing to the inspector;

(iv) in ascertaining for the purposes of this subsection whether a qualifying individual maintains a qualifying child, any payment made by that individual for or towards the maintenance of the child which the individual is entitled to deduct in computing his or her total income for the purposes of the Income Tax Acts shall be deemed not to be a payment for or towards the maintenance of the child.

(4) Where, within the 3 years mentioned in subsection (3), the qualifying employment (in this subsection referred to as 'the first-mentioned employment') in respect of which the qualifying individual is entitled to a deduction under subsection (2) ceases, the qualifying individual shall be entitled to have so much of the deductions mentioned in subsections (2) and (3) as cannot be set against his or her emoluments from the first-mentioned employment carried forward and set against the emoluments from his or her next, and only next, qualifying employment, but the deduction for any year of assessment to be set against the emoluments from either or both qualifying employments shall not exceed the deductions due under subsections (2) and (3) for that year.

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(5) (*a*) The deductions mentioned in subsections (2) and (3) shall not be due if the qualifying individual, or his or her employer, is benefiting, or has benefited, in respect of the qualifying employment in respect of which a claim under this section is made, under an employment scheme, whether statutory or otherwise.

(*b*) For the purposes of the definition of an employment scheme, an activity, programme or course mentioned in subsection (2) shall be deemed not to be an employment scheme.

(6) Any claim for relief under this section—

(*a*) shall be made in such form as the Revenue Commissioners may from time to time provide, and

(*b*) shall contain such information and be accompanied by such statement in writing as may be indicated in the said form as the Revenue Commissioners may reasonably require for the purposes of the section.'',

and

(*c*) in Chapter 1 of Part 44, by the substitution in section 1024(2)(*a*)(viii) of ''sections 472 and 472A'' for ''section 472''.

Relief for gifts made to designated schools.

17.—The Principal Act is hereby amended—

(*a*) in Chapter 1 of Part 15, by the insertion in Part 2 of the Table to section 458 of ''Section 485A(4)'' after ''Section 478'',

(*b*) in Chapter 2 of Part 15, by the insertion of the following section after section 485:

''Relief for gifts made to designated schools.

485A.—(1) In this section—

'appropriate percentage', in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;

'approved body' means a body of persons which is—

(*a*) established solely for the purpose of raising funds for the benefit of one or more named designated schools,

(*b*) composed of persons who are patrons, trustees, owners or governors of that one or those named designated schools, and

(*c*) is approved of for the purposes of this section by the Minister;

'designated school' means a primary or post-primary school which is in receipt of enhanced grants made by the Minister out of moneys provided by the Oireachtas;

'enhanced grants' mean grants, being grants that are greater than the capitation grants normally paid by the Minister to primary or post-primary schools, paid to schools a substantial proportion of the students of which are, in the opinion of the Minister, socially or economically disadvantaged;

'Minister' means the Minister for Education and Science;

'relevant gift' means a gift of money which—

(*a*) on or after the 6th day of April, 1998, is made to a designated school for the sole purpose of funding the activities of that school or to an approved body for the sole purpose of funding the activities of one or more than one named designated school,

(*b*) is or will be applied by the designated school or the approved body, as the case may be, for that purpose, and

(*c*) apart from this section is not deductible in computing for the purposes of tax the profits or gains of a trade or profession or is not income to which the provisions of section 792 apply, or is not a gift of money to which the provisions of section 484 apply;

'tax' means income tax or corporation tax, as the case may be.

(2) Where it is proved to the satisfaction of the Revenue Commissioners that a person has made a relevant gift and claims relief from tax by reference to that gift, the provisions of subsection (4) or, as the case may be, subsection (7) shall apply.

(3) In determining the net amount of the relevant gift for the purposes of subsections (4) and (7), the amount or value of any consideration received by the person concerned as a result of making the gift, whether received directly or

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indirectly from the designated school or the approved body to which the gift was made or otherwise, shall be deducted from the amount of the gift.

(4) For the purposes of income tax for the year of assessment in which a person makes a relevant gift the income tax to be charged on the person for that year of assessment, other than in accordance with section 16(2), shall be reduced by an amount which is the lesser of—

(*a*) the amount equal to the appropriate percentage of the net amount of the relevant gift, and

(*b*) the amount which reduces that income tax to nil.

(5) For the purposes of subsection (4), in the case of a person assessed to tax for a year of assessment in accordance with section 1017, any relevant gift made by the person's spouse in that year, in respect of which the person's spouse would have been entitled to relief under this section if that spouse were assessed to tax for the year of assessment in accordance with section 1016 (apart from subsection (2) of that section), shall be deemed to have been made by the person, and, accordingly, subsection (6) shall apply to that relevant gift separately from any relevant gift made by the person.

(6) Relief under this section shall not be given to a person for a year of assessment—

(*a*) if the net amount of the relevant gift (or the aggregate of the net amount of relevant gifts) made by the person in the year of assessment does not exceed £250, or

(*b*) to the extent to which the net amount of the relevant gift (or the aggregate of the net amount of the relevant gifts) made by the person in the year of assessment exceeds £1,000.

(7) Where a relevant gift is made by a company in an accounting period, the net amount of the gift shall, for the purposes of corporation tax, be treated as—

(*a*) a deductible trading expense of a trade carried on by the company, or

(*b*) an expense of management deductible in computing the total profits of the company,

for the accounting period.

(8) Relief under this section shall not be given— Pt.1 S.17

(*a*) in respect of a relevant gift or gifts made by a company in an accounting period to a particular designated school or approved body, as the case may be—

(i) if the net amount of the relevant gift (or the aggregate of the net amount of relevant gifts) does not exceed £250, or

(ii) to the extent to which the net amount of the relevant gift (or the aggregate of the net amount of relevant gifts) exceeds £10,000,

or

(*b*) to the extent to which the aggregate of the net amount of all relevant gifts made by a company in an accounting period to more than one designated school and approved body, exceeds the lesser of—

(i) £50,000, or

(ii) 10 per cent of the profits before account is taken of the relief under this section for the accounting period of the company.

(9) Where a relevant gift is made by a company in an accounting period of the company which is less than 12 months, the amounts of £10,000 and £50,000 specified in subsection (8) shall be proportionately reduced.

(10) Where a relevant gift is made by a chargeable person within the meaning of Part 41, a claim under this section shall be made with the return required to be delivered by that person under section 951 for the chargeable period in which the gift is made.

(11) Where any question arises as to whether for the purposes of this section—

(*a*) a body is an approved body,

(*b*) a school is a designated school, or

(*c*) a gift is a relevant gift,

the Revenue Commissioners may consult the Minister.

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(12) Every designated school, when required to do so by notice in writing from the Minister, shall, within the time limited by the notice, prepare and deliver to the Minister a return containing particulars of the aggregate amount of relevant gifts received by the school in the period specified in the notice.

(13) Every approved body when required to do so by notice in writing from the Minister, shall, within the time limited by the notice, prepare and deliver to the Minister a return containing particulars of the aggregate amount of relevant gifts received by the body in the period specified in the notice and the disposal of such gifts.

(14) A relevant gift shall be deemed to be made to a designated school for the purposes of this section where it is made to any person or persons who exercise any control, management or trusteeship functions over, or in respect of, the school.

(15) For the purposes of a claim to relief under this section, a designated school or an approved body shall, on acceptance of a relevant gift, give to the person making the relevant gift a receipt which shall—

(*a*) contain a statement that—

(i) it is a receipt for the purposes of this section,

(ii) the school or body is a designated school or approved body, as the case may be, for the purposes of this section, and

(iii) the gift in respect of which the receipt is given is a relevant gift for the purposes of this section, and

(*b*) show—

(i) the name and address of the person making the relevant gift,

(ii) the net amount of the relevant gift in both figures and words,

(iii) the date of the relevant gift,

(iv) the full name of the designated school or approved body, as the case may be, and

(v) the date on which the receipt was issued, and

(*c*) be signed by a duly authorised official of the designated school or approved body.'',

and

(*c*) in Chapter 1 of Part 44, by the insertion, in section 1024(2)(*a*), of the following subparagraph after subparagraph (x):

''(x*a*) relief under section 485A, to the husband and the wife according as he or she made the relevant gift giving rise to the relief;''.

Amendment of section 200 (certain foreign pensions) of Principal Act.

18.—Section 200 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (2):

''(2A) Notwithstanding subsection (2), this section shall not apply to a pension to which subparagraph (*b*) of paragraph 1 of Article 18 (Pensions, Social Security, Annuities, Alimony and Child Support) of the Convention between the Government of Ireland and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains signed at Dublin on the 28th day of July, 1997 applies.''.

Amendment of section 268 (meaning of ''industrial building or structure'') of Principal Act.

19.—Section 268 of the Principal Act is hereby amended in subsection (5)(*a*)(iii) by the substitution of ''30th day of September, 1998'' for ''31st day of December, 1997''.

Capital allowances for airport buildings and structures.

20.—Part 9 of the Principal Act is hereby amended—

(*a*) in section 268—

(i) in subsection (1), by the insertion after paragraph (*g*) (inserted by this Act) of the following paragraph:

''(*h*) for the purposes of a trade which consists of the operation or management of an airport, other than a building or structure to which paragraph (*f*) relates,'',

(ii) in subsection (9), by the insertion after paragraph (*d*) (inserted by this Act) of the following paragraph:

''(*e*) by reference to paragraph (*h*), as respects capital expenditure incurred—

(i) by Aer Rianta cuideachta phoiblí theoranta on or after the vesting day, and

(ii) by any other person on or after the date of the passing of the *Finance Act, 1998.*'',

and

(iii) by the insertion after subsection (9) of the following subsection:

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''(10) For the purposes of this Part, 'the vesting day' has the same meaning as it has in the Bill presented to Dáil Éireann by the Minister for Public Enterprise on the 2nd day of October, 1997, providing, amongst other things, for the vesting of Dublin Airport, Shannon Airport and Cork Airport in Aer Rianta cuideachta phoiblí theoranta.'',

(*b*) in section 272—

(i) in subsection (3), by the insertion after paragraph (*f*) (inserted by this Act) of the following paragraph:

''(*g*) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*h*), 4 per cent of the expenditure referred to in subsection (2)(*c*).'',

(ii) by the insertion after subsection (3) of the following subsections:

''(3A) (*a*) This subsection shall apply to a building or structure in existence on—

(i) in the case of Aer Rianta cuideachta phoiblí theoranta, the vesting day, and

(ii) in the case of any other person, the date of the passing of the *Finance Act, 1998*,

and in use for the purposes of a trade which consists of the operation or management of an airport, not being either machinery or plant or a building or structure to which section 268(1)(*f*) applies.

(*b*) For the purposes of this Part, in relation to a building or structure to which this subsection applies, expenditure shall be deemed to have been incurred on—

(i) in the case of Aer Rianta cuideachta phoiblí theoranta, the vesting day, and

(ii) in the case of any other person, the date of the passing of the *Finance Act, 1998*,

on the construction of the building or structure of an amount determined by the formula—

$$A - B$$

where—

A is the amount of the capital expenditure originally incurred on the construction of the building or structure, and

B is the amount of the writing-down allowances which would have been made under this section in respect of the capital expenditure referred to in A if the building or structure had at all times been an industrial building or structure within the meaning of section 268(1)(*h*) and on the assumption that that section had applied as respects capital expenditure incurred before—

(I) in the case of Aer Rianta cuideachta phoiblí theoranta, the vesting day, and

(II) in the case of any other person, the date of the passing of the *Finance Act, 1998*.

(3B) (*a*) This subsection shall apply to a building or structure to which section 268(1)(*f*) applies, being a building or structure in existence on the vesting day and vested in Aer Rianta cuideachta phoiblí theoranta on that day.

(*b*) For the purposes of this Part, in the case of a building or structure to which this subsection applies, expenditure shall be deemed to have been incurred by Aer Rianta cuideachta phoiblí theoranta on the vesting day on the construction of the building or structure of an amount determined by the formula—

A – B

where—

A is the amount of the capital expenditure originally incurred on the construction of the building or structure, and

B is the amount of the writing-down allowances which would have been made under this section in respect of the capital expenditure referred to in A for the period to the day before the vesting day if a claim for those allowances had been duly made and allowed.'',

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and

(iii) in subsection (4)—

(I) in paragraph (*d*), by the deletion of ''and'',

(II) by the substitution of the following paragraph for paragraph (*e*):

''(*e*) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*f*), 25 years beginning with—

(i) the time when the building or structure was first used, or

(ii) in the case of a building or structure to which subsection (3B) applies, the vesting day,'',

and

(III) by the insertion after paragraph (*f*) (inserted by this Act) of the following paragraph:

''(*g*) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*h*), 25 years beginning with—

(i) the time when the building or structure was first used, or

(ii) as respects a building or structure to which subsection (3A) applies—

(I) in the case of Aer Rianta cuideachta phoiblí theoranta, the vesting day, and

(II) in the case of any other person, the date of the passing of the *Finance Act, 1998.*'',

(*c*) in section 274(1)(*b*)—

(i) in subparagraph (iv), by the deletion of ''and'',

(ii) by the substitution of the following subparagraph for subparagraph (v):

''(v) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*f*), 25 years after—

(I) the building or structure was first used, or

(II) in the case of a building or structure to which section 272(3B) applies, the vesting day, and'',

and

(iii) by the insertion after subparagraph (v) of the following subparagraph:

''(vi) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*h*), 25 years after—

(I) the building or structure was first used, or

(II) as respects a building or structure to which section 272(3A) applies—

(A) in the case of Aer Rianta cuideachta phoiblí theoranta, the vesting day, and

(B) in the case of any other person, the date of the passing of the *Finance Act, 1998.*'',

and

(*d*) in section 284, by the insertion after subsection (7) of the following subsection:

''(8) For the purposes of this Part, Aer Rianta cuideachta phoiblí theoranta shall be deemed to have incurred, on the vesting day, capital expenditure on the provision of machinery or plant, being the machinery or plant vested in Aer Rianta cuideachta phoiblí theoranta on that day, and the actual cost of that machinery or plant shall be deemed to be an amount determined by the formula—

$$A - B$$

where—

A is the original actual cost of the machinery or plant, including in that cost any expenditure in the nature of capital expenditure on the machinery or plant by means of renewal, improvement or reinstatement, and

B is the amount of any wear and tear allowances which would have been made under this section in respect of the machinery or plant since the original provision of the machinery or plant if a claim for those allowances had been duly made and allowed.''.

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Amendment of provisions relating to certain capital allowances.

21.—Part 9 of the Principal Act is hereby amended—

(*a*) in sections 271(3)(*c*) and 273(7)(*a*)(i)—

(i) by the insertion in each of those provisions after ''the 31st day of December, 1997'', where it first occurs, of the following:

'', or before the 30th day of June, 1998, if such expenditure would have been incurred before the 31st day of December, 1997, but for the existence of circumstances which resulted in legal proceedings being initiated, being proceedings which were the subject of an order of the High Court made before the 1st day of January, 1998'',

and

(ii) by the insertion in each of those provisions after ''as if the reference to the 31st day of December, 1997,'' of ''where it first occurs,'',

and

(*b*) in sections 283(5) and 285(7)(*a*)(i)—

(i) by the insertion in each of those provisions after ''the 31st day of December, 1997'', where it first occurs, of the following:

'', or before the 30th day of June, 1998, if its provision is solely for use in an industrial building or structure referred to in sections 271(3)(*c*) and 273(7)(*a*)(i) and expenditure in respect of such provision would have been incurred before the 31st day of December, 1997, but for the existence of circumstances which resulted in legal proceedings being initiated, being proceedings which were the subject of an order of the High Court made before the 1st day of January, 1998'',

and

(ii) by the insertion in each of those provisions after ''as if the reference to the 31st day of December, 1997,'' of ''where it first occurs,''.

Capital allowances for private nursing homes.

22.—Part 9 of the Principal Act is hereby amended—

(*a*) in section 268—

(i) in subsection (1)—

(I) in paragraph (*e*), by the substitution of ''section 654,'' for ''section 654, or'', and

(II) by the insertion after paragraph (*f*) of the following paragraph:

''(*g*) for the purposes of a trade which consists of the operation or management of a nursing home within the meaning of section 2 of the

Health (Nursing Homes) Act, 1990, being a nursing home which is registered under section 4 of that Act, or'',

and

(ii) in subsection (9)—

(I) in paragraph (*b*), by the deletion of ''and'',

(II) in paragraph (*c*), by the substitution of ''1992,'' for ''1992.'', and

(III) by the insertion after paragraph (*c*) of the following paragraph:

''(*d*) by reference to paragraph (*g*), as respects capital expenditure incurred on or after the 3rd day of December, 1997, and'',

(*b*) in section 272—

(i) in subsection (3)—

(I) in paragraph (*d*), by the deletion of ''and'',

(II) in paragraph (*e*), by the substitution of ''subsection (2)(*c*),'' for ''subsection (2)(*c*).'', and

(III) by the insertion after paragraph (*e*) of the following paragraph:

''(*f*) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*g*), 15 per cent of the expenditure referred to in subsection (2)(*c*), and'',

(ii) in subsection (4), by the insertion after paragraph (*e*) of the following paragraph:

''(*f*) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(*g*), 7 years beginning with the time when the building or structure was first used, and'',

and

(iii) by the addition of the following subsection after subsection (6):

''(7) For the purposes of this section, where a writing–down allowance has been made to a person for any chargeable period in respect of capital expenditure incurred on the construction of a building or structure within the meaning of paragraph (*d*) of section 268(1) and at the end of a chargeable period or its basis period the building or structure is not in use for the purposes specified in that paragraph, then, in relation to that expenditure—

(*a*) the building or structure shall not be treated as ceasing to be an industrial building or structure if, on the cessation of its use for the purposes specified in paragraph (*d*) of section 268(1), it is

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converted to use for the purposes specified in paragraph (*g*) of that section and at the end of the chargeable period or its basis period it is in use for those latter purposes, and

(*b*) as respects that chargeable period or its basis period and any subsequent chargeable period or basis period of it, the building or structure shall, notwithstanding the cessation of its use for the purposes specified in paragraph (*d*) of section 268(1), be treated as if it were in use for those purposes if at the end of the chargeable period or its basis period the building or structure is in use for the purposes specified in paragraph (*g*) of that section.'',

and

(*c*) in section 274(1)(*b*), by the substitution of the following for subparagraph (ii):

''(ii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (*c*), (*e*) or (*g*) of section 268(1), 10 years after the building or structure was first used,''.

Capital allowances for certain sea fishing boats.

23.—The Principal Act is hereby amended—

(*a*) in section 284, by the insertion of the following subsection after subsection (3):

''(3A) (*a*) This subsection applies to machinery or plant consisting of a sea fishing boat registered in the Register of Fishing Boats and in respect of which capital expenditure is incurred in the period of 3 years commencing on the appointed day, being expenditure that is certified by Bord Iascaigh Mhara as capital expenditure incurred for the purposes of fleet renewal in the polyvalent and beam trawl segments of the fishing fleet.

(*b*) Notwithstanding subsection (2), but subject to subsection (4), wear and tear allowances to be made to any person in respect of machinery or plant to which this subsection applies shall be made during a writing-down period of 8 years beginning with the first chargeable period or its basis period at the end of which the machinery or plant belongs to that person and is in use for the purposes of that person's trade, and shall be of an amount equal to—

(i) as respects the first year of the writing-down period, 50 per cent of the actual cost of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on that machinery or plant by means of renewal, improvement or reinstatement,

(ii) as respects each of the next 6 years of the writing-down period, 15 per cent of the balance of that actual cost after the deduction of any allowance made by virtue of subparagraph (i), and

(iii) as respects the last year of the writing-down period, 10 per cent of the balance of that actual cost after the deduction of any allowance made by virtue of subparagraph (i).

(*c*) Where a chargeable period or its basis period consists of a period less than one year in length, the wear and tear allowance shall not exceed such portion of the amount specified in subparagraph (i), (ii) or (iii), as may be appropriate, of paragraph (*b*), as bears to that amount the same proportion as the length of the chargeable period or its basis period bears to a period of one year.

(*d*) This subsection shall come into operation on such day (in this subsection referred to as the 'appointed day') as the Minister for Finance may, by order, appoint.'',

and

(*b*) in section 403, by the insertion of the following subsection after subsection (5):

''(5A) (*a*) In this subsection 'appointed day' has the same meaning as in section 284(3A).

(*b*) In relation to capital allowances in respect of machinery or plant to which section 284(3A) applies—

(i) notwithstanding subsections (3) and (5)—

(I) subsection (3) shall not apply, and

(II) section 305(1)(*b*) shall apply,

where the capital expenditure on that machinery or plant is incurred in the period of 2 years commencing on the appointed day, and

(ii) notwithstanding subsections (4) and (5)—

(I) subsection (4) shall not apply, and

(II) sections 308(4) and 420(2) shall apply,

where the capital expenditure on that machinery or plant is incurred in the period of 3 years commencing on the appointed day.

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(*c*) This subsection shall come into operation on the appointed day.''.

Amendment of Chapter 3 (designated areas, designated streets, enterprise areas and multi-storey car parks in certain urban areas) of Part 10 of Principal Act.

24.—(1) Chapter 3 of Part 10 of the Principal Act is hereby amended—

(*a*) (i) in section 339(1), by the substitution in paragraph (*b*) of the definition of ''qualifying period'' of ''31st day of December, 1999'' for ''30th day of June, 2000'', and

(ii) in section 339(2)—

(I) in paragraph (*a*), by the substitution of the following for the words from ''the reference in paragraph (*a*)'' to the end of the paragraph:

''the reference in paragraph (*a*) of the definition of 'qualifying period' in subsection (1) to the period ending on the 31st day of July, 1997, shall be construed as a reference to the period ending on the 31st day of July, 1998.'',

and

(II) by the insertion of the following paragraph after paragraph (*b*):

''(*c*) Where in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of a building or structure to which paragraph (*a*) relates—

(i) the relevant local authority has given to the person constructing, converting or refurbishing, as the case may be, that building or structure, a certificate in writing to which that paragraph refers certifying that not less than 15 per cent of the total cost of the building or structure had been incurred before the 31st day of July, 1997, and

(ii) an application for planning permission for the work represented by the expenditure incurred or to be incurred on the building or structure had (in so far as such permission is required) been received by a planning authority not later than the 1st day of March, 1998, and

(iii) where the expenditure to be incurred on a building or structure has not been fully incurred by the 31st day of July, 1998, the relevant local authority gives a

certificate in writing to the person referred to in subparagraph (i) stating that in its opinion—

(I) that person had, on the 31st day of July, 1997, a reasonable expectation that the expenditure to be incurred on the building or structure would have been incurred in full on or before the 31st day of July, 1998, and

(II) the failure to incur that expenditure in full on or before the 31st day of July, 1998, was, on the basis of reasons of a bona fide character stated to it, due, to a significant extent, to a delay outside the direct control of that person, including an unanticipated delay in obtaining the grant of planning permission or a fire certificate, an unanticipated delay due to legal proceedings or unanticipated difficulties in completing the acquisition of a site or involving the failure of a building contractor to fulfil his or her obligations or the need to respect any archaeological site or remains,

then, the reference in paragraph (*a*) of the definition of 'qualifying period' to the period ending on the 31st day of July, 1997, shall be construed as a reference to the period ending on the 31st day of December, 1998.'',

(*b*) in section 340(2), by the substitution in paragraph (ii) of ''31st day of December, 1999'' for ''30th day of June, 2000'',

(*c*) in section 343—

(i) in subsection (1), in the definition of ''qualifying company'', by the substitution of the following paragraph for paragraph (*a*):

''(*a*) which has been approved for financial assistance under a scheme administered by Forfás, Forbairt, the Industrial Development Agency (Ireland) or Údarás na Gaeltachta, and'',

(ii) in subsection (1), in the definition of ''qualifying trading operations'' by the substitution of the following for paragraphs (*a*) and (*b*):

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''(*a*) the manufacture of goods within the meaning of Part 14,

(*b*) the rendering of services in the course of a service industry (within the meaning of the Industrial Development Act, 1986), or

(*c*) the rendering of services in the course or furtherance of a business of freight forwarding or the provision of logistical services in relation to such business where the rendering or provision of those services is carried on in an area or areas immediately adjacent to any of the airports to which section 340(2) refers.'',

and

(iii) in subsection (2), by the substitution of the following paragraph for paragraph (*a*):

''(*a*) on the recommendation of Forfás (in conjunction with Forbairt, the Industrial Development Agency (Ireland) or Údarás na Gaeltachta, as may be appropriate), in accordance with guidelines laid down by the Minister, and'',

(*d*) in section 345, by the substitution, in subsection (1), of the following for the definition of ''qualifying lease'':

'' 'qualifying lease' means, subject to subsection (8), a lease in respect of a qualifying premises granted in the qualifying period, or within the period of one year from the day next after the end of the qualifying period, on bona fide commercial terms by a lessor to a lessee not connected with the lessor, or with any other person entitled to a rent in respect of the qualifying premises, whether under that lease or any other lease;'',

and

(*e*) by the insertion of the following section after section 350:

''Provision against double relief.

350A.—Where relief is given by virtue of any provision of this Chapter in relation to capital expenditure or other expenditure incurred on, or rent payable in respect of, any building or structure, premises or multi-storey car park, relief shall not be given in respect of that expenditure or that rent under any other provision of the Tax Acts.''.

(2) *Paragraph (c)(ii)* of *subsection (1)* shall come into operation on such day as the Minister for Finance may, by order, appoint.

Amendment of Chapter 1 (Custom House Docks Area) of Part 10 of Principal Act.

25.—(1) Chapter 1 of Part 10 of the Principal Act is hereby amended—

(*a*) in section 322—

(i) in subsection (1), by the substitution in the definition of ''the specified period'' of ''31st day of December, 1999'' for ''24th day of January, 1999'', and

(ii) in subsection (2)(*b*), by the substitution of ''31st day of December, 1999'' for ''24th day of January, 1999'', Pt.1 S.25

and

(*b*) in section 323, by the deletion of subsection (3)(*b*).

(2) This section shall come into operation on such day as the Minister for Finance may, by order, appoint.

Amendment of section 344 (capital allowances in relation to construction or refurbishment of certain multi-storey car parks) of Principal Act.

26.—Section 344 of the Principal Act is hereby amended in subsection (1) by the substitution of the following for the definition of ''qualifying period'':

'' 'qualifying period' means the period commencing on the 1st day of July, 1995, and ending on—

(*a*) the 30th day of June, 1998, or

(*b*) the 30th day of June, 1999, where, in relation to the construction or refurbishment of the qualifying multi-storey car park concerned, the relevant local authority gives a certificate in writing on or before the 30th day of September, 1998, to the person constructing or refurbishing the qualifying multi-storey car park stating that it is satisfied that not less than 15 per cent of the total cost of the qualifying multi-storey car park and the site thereof had been incurred prior to the 1st day of July, 1998, and, in considering whether to give such a certificate, the relevant local authority shall have regard only to guidelines in relation to the giving of such certificates issued by the Department of the Environment and Local Government for the purposes of this definition;''.

Amendment of section 351 (interpretation (Chapter 4)) of Principal Act.

27.—Section 351 of the Principal Act is hereby amended—

(*a*) by the substitution of the following for the definition of ''qualifying period'':

'' 'qualifying period' means the period commencing on the 1st day of July, 1995, and ending on—

(*a*) the 30th day of June, 1998, or

(*b*) the 30th day of June, 1999, where, in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of the building or structure concerned, being—

(i) a building or structure to which section 352 applies, or

(ii) a qualifying premises within the meaning of section 353, 354, 356, 357 or 358,

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the relevant local authority gives a certificate in writing, on or before the 30th day of September, 1998, to the person constructing, converting or refurbishing, as the case may be, the building or structure stating that it is satisfied that not less than 15 per cent of the total cost of the building or structure and the site thereof had been incurred prior to the 1st day of July, 1998, and, in considering whether to give such a certificate, the relevant local authority shall have regard only to guidelines in relation to the giving of such certificates issued by the Department of the Environment and Local Government for the purposes of this definition;'',

and

(*b*) by the insertion of the following definition after the definition of ''refurbishment'':

'' 'the relevant local authority', in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of a building or structure of the kind referred to in paragraph (*b*) of the definition of 'qualifying period', means the council of a county or the corporation of a county or other borough or, where appropriate, the urban district council, in whose functional area the building or structure is situated.''.

Amendment of Chapter 6 (Dublin Docklands Area) of Part 10 of Principal Act.

28.—(1) Chapter 6 of Part 10 of the Principal Act is hereby amended—

(*a*) in section 368 by the insertion of the following after subsection (4):

''(4A) Notwithstanding section 274(1), no balancing charge shall be made in relation to a building or structure to which this section applies by reason of any of the events specified in that section which occurs—

(*a*) more than 13 years after the building or structure was first used, or

(*b*) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the building or structure was incurred.'',

and

(*b*) in section 371 by the substitution of the following for subsection (2):

''(2) (*a*) Subject to subsection (3), where an individual, having made a claim in that behalf, proves to have incurred qualifying expenditure in a year of assessment, the individual shall be entitled, for that year of assessment and for any of the 9 subsequent years of assessment in which the qualifying premises in respect of which the individual incurred the qualifying expenditure is the only or main residence of the individual, to have a deduction made from his or her total income of an amount equal to—

(i) in the case where the qualifying expenditure has been incurred on the construction of the qualifying premises, 5 per cent of the amount of that expenditure, or

(ii) in the case where the qualifying expenditure has been incurred on the refurbishment of the qualifying premises, 10 per cent of the amount of that expenditure.

(*b*) A deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure is to be treated under section 372(5) as having been incurred in the qualifying period.''.

(2) This section shall apply as on and from the 6th day of April, 1997.

Capital allowances for, and deduction in respect of, vehicles.

29.—Part 11 of the Principal Act is hereby amended—

(*a*) in subsection (2) of section 373—

(i) in paragraph (*i*), by the substitution of ''mechanically propelled vehicle;'' for ''mechanically propelled vehicle.'', and

(ii) by the insertion of the following after paragraph (*i*):

''(*j*) £15,500, where the expenditure was incurred on or after the 3rd day of December, 1997, on the provision or hiring of a vehicle which, on or after that date was not a used or secondhand vehicle and was first registered in the State under section 131 of the Finance Act, 1992, without having been previously registered in any other state which duly provides for the registration of a mechanically propelled vehicle.'',

and

(*b*) in subsection (1) of section 376, by the substitution of the following for the definition of ''relevant amount'':

'' 'relevant amount' means—

(*a*) in relation to qualifying expenditure incurred before the 23rd day of January, 1997, £14,000,

(*b*) in relation to qualifying expenditure incurred on or after the 23rd day of January, 1997, and before the 3rd day of December, 1997, £15,000, and

(*c*) in relation to qualifying expenditure incurred on or after the 3rd day of December, 1997, £15,500;''.

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Treatment of certain losses and capital allowances.

30.—The Principal Act is hereby amended by the insertion of the following sections after section 409:

''Income tax: restriction on use of capital allowances on certain industrial buildings and other premises.

409A.—(1) In this section—

'active partner', in relation to a partnership trade, means a partner who works for the greater part of his or her time on the day-to-day management or conduct of the partnership trade;

'industrial development agency' means the Industrial Development Agency (Ireland);

'partnership trade' and 'several trade' have the same meanings, respectively, as in Part 43;

'specified building' means—

(*a*) a building or structure which is or is to be an industrial building or structure by reason of its use or its deemed use for a purpose specified in section 268(1), and

(*b*) any other building or structure in respect of which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax under Chapter 1 of Part 9 by virtue of Part 10 or section 843,

but does not include a building or structure—

(i) which is or is deemed to be an industrial building or structure by reason of its use for the purposes specified in section 268(1)(*d*), or

(ii) to which section 355(1)(*b*) applies.

(2) Subject to subsection (5), in relation to any allowance to be made to an individual under Chapter 1 of Part 9 for any year of assessment in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building, section 305 shall apply as if the following were substituted for subsection (1)(*b*) of that section:

'(*b*) Notwithstanding paragraph (*a*), where an allowance referred to in that paragraph is available primarily against income of the specified class and the amount of the allowance is greater than the amount of the person's income of that class for the first-mentioned year of assessment, the person may, by notice in writing given to the inspector not later than 2 years after the end of the year of assessment, elect that the excess or £25,000, whichever is the lower, shall be deducted from or set off against the person's other income for that year of assessment, and it shall be deducted

from or set off against that income and tax shall be discharged or repaid accordingly and only the balance, if any, of the allowance shall be deducted from or set off against the person's income of the specified class for succeeding years.'.

(3) Subject to subsection (5), where—

(*a*) any allowance or allowances under Chapter 1 of Part 9 is or are to be made for a year of assessment to an individual, being an individual who is a partner in a partnership trade, in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building, and

(*b*) that allowance or those allowances is or are to be made in taxing the individual's several trade,

then, unless in the basis period for the year of assessment in respect of which that allowance or those allowances is or are to be made the individual is an active partner in relation to the partnership trade, the amount of any such allowance or allowances which is to be taken into account for the purposes of section 392(1) shall not exceed an amount determined by the formula—

$$A + £25,000$$

where A is the amount of the profits or gains of the individual's several trade in the year of loss before section 392(1) is applied.

(4) Where an individual is a partner in 2 or more partnership trades, then, for the purposes of subsection (3), those partnership trades in relation to which the individual is not an active partner shall, in relation to that individual, be deemed to be a single partnership trade and the individual's several trades in relation to those partnership trades shall be deemed to be a single several trade.

(5) This section shall not apply to an allowance to be made to an individual under Chapter 1 of Part 9 in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building where before that date—

(*a*) (i) in the case of construction, the foundation for the specified building was laid in its entirety,

(ii) in the case of a refurbishment project, work to the value of 5 per cent of the total cost of that refurbishment project was carried out, or

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(iii) a project for which the specified building is to be provided had been approved for grant assistance by an industrial development agency but only where that approval was given within a period of 2 years preceding that date,

or

(*b*) (i) an application for planning permission for the work represented by that expenditure on the specified building had (in so far as such permission is required) been received by a planning authority before the 3rd day of December, 1997, or

(ii) the individual can prove, to the satisfaction of the Revenue Commissioners, that a detailed plan had been prepared for the work represented by that expenditure and that detailed discussions had taken place with a planning authority in relation to the specified building before the 3rd day of December, 1997, and that this can be supported by means of an affidavit or statutory declaration duly made on behalf of the planning authority concerned,

and that expenditure is incurred under an obligation entered into by the individual in relation to the specified building before—

(i) the 3rd day of December, 1997, or

(ii) the 1st day of May, 1998, pursuant to negotiations which were in progress before the 3rd day of December, 1997.

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

(*a*) an obligation shall be treated as having been entered into before a particular date only if, before that date, there was in existence a binding contract in writing under which that obligation arose, and

(*b*) negotiations pursuant to which an obligation was entered into shall not be regarded as having been in progress before a particular date unless preliminary commitments or agreements in writing in relation to that obligation had been entered into before that date.

(7) Where an individual has entered into an obligation to which subsection (5) relates to incur capital expenditure on a specified building on or after the 3rd day of December, 1997, and that individual dies before any part of that expenditure has been incurred, another individual who—

(*a*) undertakes in writing to honour the obligation entered into by the deceased individual, and

(*b*) incurs that part of the capital expenditure on the specified building which would otherwise have been incurred by the deceased individual,

shall be deemed to have complied with the requirements of subsection (5) in relation to that expenditure.

(8) This section shall, with any necessary modifications, apply in relation to a profession as it applies in relation to a trade.

Income tax: restriction on use of capital allowances on certain hotels, etc.

409B.—(1) In this section—

'active partner', in relation to a partnership trade, has the same meaning as in section 409A;

'partnership trade' and 'several trade' have the same meanings, respectively, as in Part 43;

'specified building' means a building or structure which is or is deemed to be an industrial building or structure by reason of its use for a purpose specified in section 268(1)(*d*) but does not include—

(*a*) any such building or structure (not being a building or structure in use as a holiday camp referred to in section 268(3))—

(i) the site of which is wholly within any of the administrative counties of Cavan, Donegal, Leitrim, Mayo, Monaghan, Roscommon and Sligo but not within a qualifying resort area within the meaning of Chapter 4 of Part 10, and

(ii) in which the accommodation and other facilities provided meet a standard specified in guidelines issued by the Minister for Tourism, Sport and Recreation with the consent of the Minister for Finance,

and

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(*b*) a building or structure which is deemed to be such a building or structure by reason of its use as a holiday cottage of the type referred to in section 268(3).

(2) Subject to subsection (4), section 305(1)(*b*) shall not apply in relation to any allowance to be made to an individual for a year of assessment under Chapter 1 of Part 9 in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building.

(3) Subject to subsection (4), where—

(*a*) any allowance or allowances under Chapter 1 of Part 9 is or are to be made for a year of assessment to an individual, being an individual who is a partner in a partnership trade, in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building, and

(*b*) that allowance or those allowances is or are to be made in taxing the individual's several trade,

then, unless in the basis period for the year of assessment in respect of which that allowance or those allowances is or are to be made the individual is an active partner in relation to the partnership trade, the amount of any such allowance or allowances which is to be taken into account for the purposes of section 392(1) shall not exceed the amount of the profits or gains of the individual's several trade in the year of loss before that section is applied.

(4) This section shall not apply to an allowance to be made to an individual under Chapter 1 of Part 9 in respect of capital expenditure incurred on or after the 3rd day of December, 1997, on a specified building where before that date—

(*a*) (i) in the case of construction, the foundation for the specified building was laid in its entirety, or

(ii) in the case of a refurbishment project, work to the value of 5 per cent of the total cost of that refurbishment project was carried out,

or

(*b*) (i) an application for planning permission for the work represented by that expenditure on the specified building had (in so far as

such permission is required) been received by a planning authority before the 3rd day of December, 1997, or

(ii) the individual can prove, to the satisfaction of the Revenue Commissioners, that a detailed plan had been prepared for the work represented by that expenditure and that detailed discussions had taken place with a planning authority in relation to the specified building before the 3rd day of December, 1997, and that this can be supported by means of an affidavit or statutory declaration duly made on behalf of the planning authority concerned,

and that expenditure is incurred under an obligation entered into by the individual in relation to the specified building before—

(i) the 3rd day of December, 1997, or

(ii) the 1st day of May, 1998, pursuant to negotiations which were in progress before the 3rd day of December, 1997.

(5) For the purposes of subsection (4)—

(*a*) an obligation shall be treated as having been entered into before a particular date only if, before that date, there was in existence a binding contract in writing under which that obligation arose, and

(*b*) negotiations pursuant to which an obligation was entered into shall not be regarded as having been in progress before a particular date unless preliminary commitments or agreements in writing in relation to that obligation had been entered into before that date.

(6) Where an individual has entered into an obligation to which subsection (4) relates to incur capital expenditure on a specified building on or after the 3rd day of December, 1997, and that individual dies before any part of that expenditure has been incurred, another individual who—

(*a*) undertakes in writing to honour the obligation entered into by the deceased individual, and

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(*b*) incurs that part of the capital expenditure on the specified building which would otherwise have been incurred by the deceased individual,

shall be deemed to have complied with the requirements of subsection (4) in relation to that expenditure.

(7) This section shall, with any necessary modifications, apply in relation to a profession as it applies in relation to a trade.''.

Amendment of section 403 (restriction on use of capital allowances for certain leased assets) of Principal Act.

31.—Section 403 of the Principal Act is hereby amended in subsection (9) by the substitution of the following paragraph for paragraph (*b*):

''(*b*) The reference in the definition of 'the specified capital allowances' to machinery or plant to which this subsection applies is a reference to machinery or plant (not being a film of the kind mentioned in subsection (7)(*a*)) provided on or after the 13th day of May, 1986, for leasing by a lessor to a lessee (who is not a person connected with the lessor) under a lease the terms of which include an undertaking given by the lessee that, during a period (in this section referred to as 'the relevant period') which is not less than 3 years and which commences on the day on which the machinery or plant is first brought into use by the lessee, the machinery or plant so provided will—

(i) where it is so provided before the 4th day of March, 1998, be used by the lessee for the purposes only of a specified trade carried on in the State by the lessee, and

(ii) where it is so provided on or after that day, be used by the lessee for the purposes only of a specified trade carried on in the State by the lessee and that it will not be used for the purposes of any other trade, or business or activity other than the lessor's trade.''.

Amendment of section 481 (relief for investment in films) of Principal Act.

32.—(1) Section 481 of the Principal Act is hereby amended in subsection (1) in the definition of ''film''—

(*a*) in paragraph (*a*), by the substitution of ''subsection (2), and'' for ''subsection (2), or'',

(*b*) in paragraph (*b*), by the substitution of ''as respects every film'' for ''as respects any other film''.

(2) This section shall apply as on and from the 6th day of April, 1997.

Amendment of section 482 (relief for expenditure on significant buildings and gardens) of Principal Act.

33.—As respects qualifying expenditure incurred on or after the 12th day of February, 1998, section 482 of the Principal Act is hereby amended by the addition to subsection (2) of the following paragraph after paragraph (*c*)—

''(*d*) For the purpose only of determining, in relation to a claim referred to in paragraph (*a*), whether and to what extent qualifying expenditure incurred in relation to an approved building is incurred or not incurred in a chargeable period, only such an amount of that qualifying expenditure as is properly attributable to work which was actually carried out during the chargeable period shall (notwithstanding any other provision of the Tax Acts as to the time when any expenditure is or is to be treated as incurred) be treated as having been incurred in that period.''. Pt.1 S.33

Restriction of relief as respects eligible shares issued on or after 3rd December, 1997.

34.—The Principal Act is hereby amended in Part 16—

(*a*) subject to *section 35*, as respects eligible shares issued on or after the 3rd day of December, 1997—

(i) in section 491—

(I) by the substitution of the following for subsections (2) and (3):

''(2) (*a*) Subject to this section, where a company raises any amount through the issue of eligible shares on or after the 3rd day of December, 1997, (in this section referred to as 'the relevant issue'), relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

A — B

where—

A is—

(i) in the case of a company which, or whose qualifying subsidiary, raises the amount by virtue of section 496(2)(*a*)(iv)(II), £100,000,

(ii) in the case of a relevant investment, £500,000,

(iii) in the case where the money raised was used, is being used or is intended to be used solely for qualifying trading operations referred to in section 496(2)(*a*)(ix) carried on or to be carried on by the company or its qualifying subsidiary, £1,000,000, or

(iv) in any other case, £250,000, and

B is the lesser of—

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(i) the appropriate amount represented by A in the formula, and

(ii) an amount equal to the aggregate of all amounts raised by the company through the issue of eligible shares at any time before the relevant issue other than—

(I) where A in the formula is £100,000, the first £400,000, and

(II) where A in the formula is £250,000, the first £250,000,

of any amounts raised by way of relevant investments.

(*b*) (i) Where a company raises any amount through a relevant issue which amount consists of a relevant investment and any other amount, the relevant issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to consist of 2 separate issues of eligible shares one of which shall be in respect of the relevant investment (in this paragraph referred to as 'the first issue') and the other in respect of the other amount raised (in this paragraph referred to as 'the second issue').

(ii) Where subparagraph (i) applies, the first issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to have been made on the day before the date of the relevant issue and the second issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to have been made on the date of the relevant issue and paragraph (*a*) shall apply accordingly.

(3) (*a*) Where a company raises any amount through a relevant issue and that company is associated (within the meaning of this section) with one or more other companies, then, as respects that company, relief shall not be given in respect of the excess

of the amount so raised over the amount determined by the formula—

A — B

where—

A is—

(i) in the case of a company which, or whose qualifying subsidiary, raises the amount by virtue of section 496(2)(*a*)(iv)(II), £100,000,

(ii) in the case of a relevant investment, £500,000,

(iii) in the case where the money raised was used, is being used or is intended to be used solely for qualifying trading operations referred to in section 496(2)(*a*)(ix) carried on or to be carried on by the company or its qualifying subsidiary, £1,000,000, or

(iv) in any other case, £250,000, and

B is the lesser of—

(i) the appropriate amount represented by A in the formula, and

(ii) the aggregate of all amounts raised through the issue of eligible shares at any time before or on the date of the relevant issue by all of the companies (including that company) which are associated within the meaning of this section other than—

(I) the amount raised through the relevant issue, and

(II) (A) where A in the formula is £100,000, the first £400,000, and

(B) where A in the formula is £250,000, the first £250,000,

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of any amounts raised by way of relevant investments.

(*b*) (i) Where a company raises any amount through a relevant issue which amount consists of a relevant investment and any other amount, the relevant issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to consist of 2 separate issues of eligible shares one of which shall be in respect of the relevant investment (in this paragraph referred to as 'the first issue') and the other in respect of the other amount raised (in this paragraph referred to as 'the second issue').

(ii) Where subparagraph (i) applies, the first issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to have been made on the day before the date of the relevant issue and the second issue shall be deemed for the purposes of this subsection (but for no other purpose of this Part) to have been made on the date of the relevant issue and paragraph (*a*) shall apply accordingly.'',

and

(II) by the substitution of the following subsection for subsection (5):

''(5) In determining for the purposes of the formula in subsection (2)(*a*) or, as the case may be, the formula in subsection (3)(*a*) the amount to which paragraph (ii) of the definition of 'B' in those formulas relates, account shall not be taken of any amount—

(*a*) which is subscribed by a person other than an individual who qualifies for relief, or

(*b*) in respect of which relief is precluded by virtue of section 490.'',

and

(ii) by the deletion of section 492,

(*b*) in section 498, as on and from the 12th day of February, 1998, by the substitution of the following subsection for subsection (4)—

''(4) Where an individual holds ordinary shares of any class in a company and the relief has been given in respect of some shares of that class but not others, any disposal by the individual of ordinary shares of that class in the company, not being a disposal to which section 479(3) or 512(2) applies, shall be treated for the purposes of this section as relating to those in respect of which relief has been given under this Part rather than to others.'',

and

(*c*) in section 504, by the substitution in paragraph (*a*) of subsection (7) of ''500'' for ''498''.

Transitional arrangements in relation to *section 34*.

35.—(1) In this section—

''auditor'' means—

(*a*) in relation to a company or its qualifying subsidiary, the person or persons appointed as auditor of the company or its qualifying subsidiary, as appropriate, for all the purposes of the Companies Acts, 1963 to 1990, and

(*b*) in relation to a specified designated fund, the person or persons appointed as auditor of that fund;

''authority'' has the meaning assigned to it by section 492 of the Principal Act;

''certifying agency'' has the meaning assigned to it by section 488 of the Principal Act;

''certifying Minister'' has the meaning assigned to it by section 488 of the Principal Act;

''combined certificate'' has the meaning assigned to it by section 492 of the Principal Act;

''County Enterprise Board'' means a board referred to in the Schedule to the Industrial Development Act, 1995;

''eligible shares'' has the meaning assigned to it by section 488 of the Principal Act;

''industrial development agency'' has the meaning assigned to it by section 488 of the Principal Act;

''the principal provisions'' mean Chapter III of Part I of the Finance Act, 1984, or Part 16 of the Principal Act;

''prospectus'', in relation to a company, means any prospectus, notice, circular or advertisement, offering to the public for subscription or purchase any eligible shares of the company, and in this definition ''the public'' includes any section of the public, whether selected as members of the company or as clients of the person issuing the prospectus or in any other manner;

''qualifying subsidiary'', in relation to a company, has the same meaning as it has for the purposes of section 495 of the Principal Act;

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''qualifying trading operations'' has the meaning assigned to it by section 496 of the Principal Act;

''relevant certificate'' has the meaning assigned to it by section 492 of the Principal Act;

''specified designated fund'' means an investment fund designated under section 27 of the Finance Act, 1984, which closed on or before the 5th day of April, 1997;

''the specified period'' means the period beginning on the 1st day of December, 1996, and ending on the 2nd day of December, 1997.

(2) *Paragraph (a)* of *section 34* shall not apply as respects eligible shares issued on or after the 3rd day of December, 1997, by a company to which this section applies and in respect of which the conditions in either *subsection (5), (6)* or *(7)* are met.

(3) The provisions of Part 16 of the Principal Act which were in force immediately before the 3rd day of December, 1997, shall, as those provisions stand amended by *paragraphs (b)* and *(c)* of *section 34,* apply as respects eligible shares issued on or after that day by a company to which this section applies and in respect of which the conditions in either *subsection (5), (6)* or *(7)* are met.

(4) This section applies to a company which, or whose qualifying subsidiary, either carries on or intends to carry on one or more of the qualifying trading operations.

(5) The conditions of this subsection referred to in *subsection (2)* are—

(*a*) the eligible shares are issued by the company on or before the 5th day of April, 1998, and

(*b*) the eligible shares are issued following a subscription on behalf of an individual by a person or persons having the management of a specified designated fund, and

(*c*) the company proves to the satisfaction of the Revenue Commissioners that before the 3rd day of December, 1997, it had the intention of raising money, on or before the 5th day of April, 1998, under the principal provisions through the specified designated fund referred to in *paragraph (b)* of this subsection,

and in determining whether they are satisfied that the company has complied with the requirements specified in *paragraph (c)* of this subsection the Revenue Commissioners shall have regard to the following—

(i) (I) signed heads of agreement between the company and the fund, or

(II) exchange of correspondence between the company and the fund showing a clear intention that the fund intended, on or before the 5th day of April, 1998, to subscribe for eligible shares in the company,

(ii) a certificate by the auditor of the fund confirming that it is a specified designated fund, and

(iii) any other information the Revenue Commisisoners deem necessary for the purpose. Pt.1 S.35

(6) The conditions of this subsection referred to in *subsection (2)* are—

(*a*) the eligible shares are issued by the company on or before the 30th day of September, 1998, and

(*b*) a relevant certificate or a combined certificate has been issued to the company by an authority before the 3rd day of December, 1997.

(7) The conditions of this subsection referred to in *subsection (2)* are—

(*a*) the eligible shares are issued by the company on or before the 30th day of September, 1998, and

(*b*) the company proves to the satisfaction of the Revenue Commissioners that before the 3rd day of December, 1997, it had an intention to raise money under the principal provisions, and in determining whether they are so satisfied the Revenue Commissioners shall have regard to one or more of the following—

(i) an application in writing made by the company to the Revenue Commissioners in the specified period for the opinion of the Revenue Commissioners as to whether the company would be a qualifying company for the purposes of the principal provisions,

(ii) an application in writing made by the company to an authority in the specified period for a relevant certificate or a combined certificate,

(iii) an application in writing made by the company to an industrial development agency in the specified period for a certificate referred to in section 489(2)(*e*) of the Principal Act,

(iv) an application in writing made to a certifying agency, certifying Minister or County Enterprise Board in the specified period for a certificate under section 497 of the Principal Act, and

(v) the publication in the specified period of a prospectus by, or on behalf of, the company,

and

(*c*) (i) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (i), (ii), (iii), (v), (viii), (ix), (xi) or (xiii) of paragraph (*a*) of section 496(2) of the Principal Act, that in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing—

(I) to purchase or lease land or a building,

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(II) to purchase or lease plant or machinery, or

(III) for the construction or refurbishment of a building,

to be used in the carrying on of its qualifying trading operation,

(ii) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in sub-paragraph (vii) of paragraph (*a*) of section 496(2) of the Principal Act, that in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing—

(I) to purchase or lease greenhouses,

(II) to purchase or lease plant or machinery, or

(III) for the construction or refurbishment of greenhouses,

to be used in the carrying on of its qualifying trading operation,

(iii) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in sub-paragraph (xii) of paragraph (*a*) of section 496(2) of the Principal Act, that in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing for the production, publication, marketing or promotion of the qualifying recording or qualifying recordings which the company or its qualifying subsidiary, as the case may be, intends to produce,

and the company proves to the satisfaction of the Revenue Commisisoners that the contract which it or its qualifying subsidiary, as the case may be, had entered into was integral to, or consistent with, the purpose for which it had intended to raise money under the principal provisions and that the consideration of the contract is equal to 25 per cent or more of the money which it is intended to so raise.

(8) For the purposes of *subsection (7)*—

(*a*) the date on which a contract was entered into by a company or, as the case may be, its qualifying subsidiary, and

(*b*) the date on which a prospectus was published by, or on behalf of, a company,

shall be confirmed in a certificate by the auditor of the company, or its qualifying subsidiary, as appropriate.

Employee share schemes.

36.—(1) The Principal Act is hereby amended—

(*a*) in Chapter 1 of Part 17, by the insertion of the following section after section 511:

''Shares acquired from an employee share ownership trust.

511A.—(1) Where, on or after the date of the passing of the *Finance Act, 1998*, the trustees of an approved scheme make an appropriation of shares to which section 510(3) applies to a participant and the conditions mentioned in subsection (2) are satisfied, then, for the purposes of this Chapter as it applies to those shares—

(*a*) the period of retention shall end on, and

(*b*) the release date shall be,

the day following the day on which the shares were appropriated to the participant.

(2) The conditions referred to in subsection (1) are that—

(*a*) the shares concerned were transferred to the trustees of the approved scheme concerned by the trustees of an employee share ownership trust to which section 519 applies,

(*b*) immediately prior to the transfer referred to in paragraph (*a*), the shares had been held in that employee share ownership trust for a period of not less than 3 years, and

(*c*) the participant concerned was a beneficiary (within the meaning of paragraph 11 of Schedule 12) under that employee share ownership trust at all times during the period of 3 years ending on the date on which the shares were appropriated to him or her.'',

(*b*) in Chapter 2 of Part 17, by the substitution in section 519 of the following subsection for subsection (7):

''(7) The trustees of a trust to which this section applies shall not be chargeable to income tax in respect of income consisting of dividends in respect of securities held by the trust if, and to the extent that, the income is expended within the expenditure period (within the meaning of paragraph 13 of Schedule 12) by the trustees for one or more of the qualifying purposes referred to in that paragraph, but the trustees shall not be entitled to the setoff or payment of a tax credit under section 136 in respect of those dividends.'',

(*c*) in Schedule 11, by the insertion in paragraph 4 of the following subparagraph after subparagraph (1):

''(1A) (*a*) As respects a profit sharing scheme approved on or after the date of the passing of the *Finance Act, 1998*, the Revenue Commissioners must be satisfied—

(i) that there are no features of the scheme (other than any which are included to satisfy the requirements of Chapter 1 of Part 17 and this

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Schedule) which have or would have the effect of discouraging any description of employees or former employees who fulfil the conditions in subparagraph (1) from participating in the scheme, and

(ii) where the company concerned is a member of a group of companies, that the scheme does not and would not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of higher or the highest levels of remuneration.

(*b*) In this subparagraph 'a group of companies' means a company and any other companies of which it has control.'',

and

(*d*) in Schedule 12—

(i) in paragraph 1—

(I) by the substitution of the following subparagraph for subparagraph (3):

''(3) For the purposes of this Schedule, a company falls within the founding company's group at a particular time if—

(*a*) it is the founding company, or

(*b*) at that time, it is controlled by the founding company and the trust concerned referred to in paragraph 2(1) is expressed to extend to it.'',

and

(II) in subparagraph (4)(*a*), by the substitution of the following definition for the definition of ''associate'':

'' 'associate' has the meaning assigned to it by subsection (3) of section 433, subject to the reference to the employees in both places where it occurs in subparagraph (ii) of paragraph (*c*) of that subsection being construed as including a reference to former employees;'',

(ii) by the substitution of the following paragraph for paragraph 2:

''2. (1) On the application of a body corporate (in this Schedule referred to as 'the founding company') which has established an employee share ownership trust, the Revenue Commissioners shall approve of the trust as a qualifying employee share ownership trust if they are

satisfied that the conditions in paragraphs 6 to 18 are complied with in relation to the trust. Pt.1 S.36

(2) (*a*) Where the founding company is a member of a group of companies, the Revenue Commissioners shall not approve of a trust under subparagraph (1) unless they are satisfied that the trust does not and would not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of higher or the highest levels of remuneration.

(*b*) In this subparagraph 'a group of companies' means a company and any other companies of which it has control.'',

(iii) in paragraph 11—

(I) by the substitution of the following subparagraphs for subparagraph (2):

''(2) The trust deed shall provide that a person is a beneficiary at a particular time (in this subparagraph referred to as 'the relevant time') if—

(*a*) the person is at the relevant time an employee or director of a company within the founding company's group,

(*b*) at each given time in a qualifying period the person was such an employee or director of a company falling within the founding company's group at that given time,

(*c*) in the case of a director, at that given time the person worked as a director of the company concerned at the rate of at least 20 hours a week (disregarding such matters as holidays and sickness), and

(*d*) the person is chargeable to income tax in respect of his or her office or employment under Schedule E.

(2A) The trust deed may provide that a person is a beneficiary at a particular time if, but for subparagraph (2)(*d*), he or she would be a beneficiary within the rule which is included in the deed and conforms with subparagraph (2).'',

(II) in subparagraph (4)(*a*), by the substitution for ''subparagraph (3)'' of ''subparagraphs (2A) and (3)'',

(III) in subparagraph (5), by the substitution for ''subparagraph (2)'' of ''subparagraphs (2) and (2A)'',

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(IV) in subparagraph (7), by the substitution for ''subparagraph (3) or (4)'' of ''subparagraph (2A), (3) or (4)'', and

(V) in subparagraph (8), by the substitution for ''subparagraph (2), (3) or (4)'' of ''subparagraph (2), (2A), (3) or (4)''.

(2) (*a*) *Paragraph (b)* of *subsection (1)* shall apply as on and from the date of the passing of this Act.

(*b*) *Paragraph (d)* of *subsection (1)* shall apply as respects employee share ownership trusts approved of under paragraph 2 of Schedule 12 of the Principal Act on or after the date of the passing of this Act.

Payments to subcontractors in certain industries.

37.—(1) Part 18 of the Principal Act is hereby amended in Chapter 2—

(*a*) in subsection (1) of section 530, by the substitution of the following definition for the definition of ''meat processing operations'':

'' 'meat processing operations' means operations of any of the following descriptions—

(*a*) the slaughter of cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,

(*b*) the catching of domestic fowl, turkeys, guinea-fowl, ducks or geese,

(*c*) the division (including cutting or boning), sorting, packaging (including vacuum packaging), rewrapping or branding of, or the application of any other similar process to, the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,

(*d*) the application of methods of preservation (including cold storage) to the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,

(*e*) the loading or unloading of the carcasses or part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese at any establishment where any of the operations referred to in paragraphs (*a*), (*c*) and (*d*) are carried on,

(*f*) the haulage of the carcasses or any part of the carcasses (including meat) of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese from

any establishment where any of the operations referred to in paragraphs (*a*), (*c*) and (*d*) are carried on,

(*g*) the cleaning down of any establishment where any of the operations referred to in paragraphs (*a*), (*c*) and (*d*) are carried on,

(*h*) the grading, sexing and transport of day-old chicks of domestic fowl, turkeys, guinea-fowl, ducks or geese,

(*i*) the haulage for hire of cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese or of any of the materials, machinery or plant for use, whether used or not, in any of the operations referred to in paragraphs (*a*) to (*h*).'',

and

(*b*) in paragraph (*b*) of section 531(1), by the substitution of the following for subparagraph (ii):

''(ii) carrying on a business of meat processing operations in an establishment approved and inspected in accordance with the European Communities (Fresh Meat) Regulations, 1997 (S.I. No. 434 of 1997) or, as the case may be, the European Communities (Fresh Poultrymeat) Regulations, 1996 (S.I. No. 3 of 1996), or''.

(2) This section shall apply as on and from the 6th day of October, 1998.

Amendment of section 659 (farming: allowances for capital expenditure on the construction of farm buildings, etc. for control of pollution) of Principal Act.

38.—Section 659 of the Principal Act is hereby amended in subsection (3) by the substitution of the following paragraph for paragraph (*a*):

''(*a*) as respects the first year of the writing-down period referred to in subsection (2), where the capital expenditure was incurred—

(i) before the 6th day of April, 1998, an amount equal to 50 per cent of that expenditure or £10,000, whichever is the lesser, or

(ii) on or after the 6th day of April, 1998, an amount equal to 50 per cent of that expenditure or £15,000, whichever is the lesser,''.

Amendment of section 667 (special provisions for qualifying farmers) of Principal Act.

39.—Section 667 of the Principal Act is hereby amended in paragraph (*b*) of subsection (2)—

(*a*) in subparagraph (i), by the substitution of ''years of assessment, or'' for ''years of assessment,'', and

(*b*) by the substitution of the following for subparagraphs (ii) and (iii):

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''(ii) on or after the 6th day of April, 1995, and before the 6th day of April, 1999, for the year of assessment in which the individual becomes a qualifying farmer and for each of the 3 immediately succeeding years of assessment.''.

Amendment of section 680 (annual allowance for mineral depletion) of Principal Act.

40.—Section 680(2) of the Principal Act is hereby amended—

(*a*) by the insertion after ''qualifying mine'' of ''at any time'', and

(*b*) by the substitution for ''date'' of ''time''.

Amendment of section 681 (allowance for mine rehabilitation expenditure) of Principal Act.

41.—Subsection (1)(*a*) of section 681 of the Principal Act is hereby amended by the insertion in the definition of ''qualifying mine'' after ''limestone,'' of ''fireclay, coal,''.

Amendment of section 734 (taxation of collective investment undertakings) of Principal Act.

42.—Section 734 of the Principal Act, is hereby amended in paragraph (*a*) of subsection (1) by the substitution for paragraph (ii) of the definition of ''specified company'' of the following paragraph:

''(ii) (I) not more than 25 per cent of the share capital of which is owned directly or indirectly by persons resident in the State, or

(II) all of the share capital of which is owned directly by another company resident in the State and not more than 25 per cent of the share capital of that other company is owned directly or indirectly by persons resident in the State,''.

Taxation of shares issued in place of cash dividends.

43.—(1) The Principal Act is hereby amended—

(*a*) in section 816 by the substitution for subsections (1) to (3) of the following subsections—

''(1) In this section—

'company' means any body corporate;

'quoted company' means a company whose shares, or any class of whose shares—

(*a*) are listed in the official list of the Irish Stock Exchange or on any other stock exchange, or

(*b*) are quoted on the market known as the Developing Companies Market, or the market known as the Exploration Securities Market, of the Irish Stock Exchange or on any similar or corresponding market of any other stock exchange;

'share' means share in the share capital of a company and includes stock and any other interest in the company.

(2) Where any person as a consequence of the exercise (whether before, on or after the declaration of a distribution of profits by a company) of an option to receive in respect of shares in the company either a sum in cash or additional share capital of the company, receives such additional share capital, then, an amount equal to the amount which that person would have received if that person had received the distribution in cash instead of such share capital shall for the purposes of the Tax Acts—

(*a*) where the company is resident outside the State, be deemed to be income received by the person from the company, and such income shall be treated as income from securities and possessions outside the State and be assessed and charged to tax under Case III of Schedule D,

(*b*) where the company is resident in the State and is a quoted company—

(i) be treated as a distribution made by the company, and

(ii) be deemed to be a distribution received by the person,

and

(*c*) where the company is resident in the State and is not a quoted company, be deemed to be profits or gains of the person, being profits or gains not within any other Case of Schedule D and not charged by virtue of any other Schedule, and be assessed and charged to tax under Case IV of Schedule D.

(3) Where a company is treated under subsection (2)(*b*)(i) as making a distribution to a person, section 152 shall apply with any necessary modifications as if the distribution were a dividend to which subsection (1) of that section applies.'',

(*b*) in section 4 (as amended by *section 51*) in the definition of ''distribution'' in subsection (1) by the substitution for ''sections 436 and 437'' of ''sections 436 and 437, and subsection (2)(*b*) of section 816'',

(*c*) in section 20(1), paragraph 1 of Schedule F by the substitution for ''sections 436 and 437'' of ''sections 436 and 437, and subsection (2)(*b*) of section 816'', and

(*d*) in section 130(1) by the substitution for ''sections 436 and 437'' of ''sections 436 and 437, and subsection (2)(*b*) of section 816''.

(2) This section shall apply as respects shares issued by a company on or after the 3rd day of December, 1997.

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Amendment of section 843 (capital allowances for buildings used for third level educational purposes) of Principal Act.

44.—Section 843 of the Principal Act is hereby amended in subsection (1)—

(*a*) by the substitution of the following definition for the definition of ''approved institution'':

'' 'approved institution' means—

(*a*) an institution of higher education within the meaning of section 1 of the Higher Education Authority Act, 1971, or

(*b*) an institution in the State in receipt of public funding which provides courses to which a scheme approved by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies;'',

and

(*b*) by the substitution, in the definition of ''qualifying premises'', of the following subparagraph for subparagraph (ii) of paragraph (*b*):

''(ii) is let to an approved institution,''.

Amendment of Part 41 (self assessment) of Principal Act.

45.—(1) Part 41 of the Principal Act is hereby amended—

(*a*) in section 950(1), by the substitution, in the definition of ''specified return date for the chargeable period'', of the following paragraph for paragraph (*a*):

''(*a*) where the chargeable period is a year of assessment, the 31st day of January in the year of assessment following that year; but as respects—

(i) such year of assessment (not being earlier than the year 1998–99) as the Minister for Finance shall by order appoint, and

(ii) each year of assessment following the year to which subparagraph (i) relates,

the 30th day of November following the year of assessment,'',

and

(*b*) in section 958—

(i) in subsection (2)—

(I) by the substitution of the following paragraphs for paragraphs (*a*) and (*b*):

''(*a*) where the chargeable period is a year of assessment for income tax and subject to subsection (10), on or before the 1st day of November in the year of assessment; but as respects—

(i) such year of assessment (not being earlier than the year 1999-2000) as the Minister for Finance shall by order appoint, and

(ii) each year of assessment following the year to which subparagraph (i) relates,

the 30th day of November in the year of assessment,

(*b*) where the chargeable period is a year of assessment for capital gains tax, on or before the 1st day of November following the year of assessment; but as respects—

(i) such year of assessment (not being earlier than the year 1998-1999) as the Minister for Finance shall by order appoint, and

(ii) each year of assessment following the year to which subparagraph (i) relates,

the 30th day of November following the year of assessment, or'',

and

(II) by the substitution of ''the 1st day of November in the year of assessment, the 30th day of November in the year of assessment, the 1st day of November following the year of assessment, the 30th day of November following the year of assessment'' for ''the 1st day of November in the year of assessment, the 1st day of November following the year of assessment'',

(ii) in subsection (3)(*b*), the substitution of the following subparagraph for subparagraph (ii):

''(ii) if the chargeable period is a year of assessment for capital gains tax, on or before the specified return date for the chargeable period or, if later, not later than one month from the date on which the assessment is made; but as respects—

(I) such year of assessment (not being earlier than the year 1998–1999) as the Minister for Finance shall by order appoint, and

(II) each year of assessment following the year to which clause (I) relates,

on or before the specified return date for the chargeable period, and'',

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(iii) in subsection (4)(*b*), by the substitution of the following subparagraph for subparagraph (i):

''(i) (I) 90 per cent of the tax payable by the chargeable person for the chargeable period, or

(II) in the case of an assessment to capital gains tax made on a chargeable person for the chargeable period, being the year 1998-99 or any subsequent year of assessment, the tax payable by the chargeable person for the chargeable period,'',

and

(iv) in subsection (10)—

(I) in paragraph (*a*), by the substitution of the following for the words from ''on or before the 9th day of December'' to the end of the paragraph:

''on or before—

(i) in the case of the years 1997-98 and 1998-99, the 9th day of December, and

(ii) in the case of the year 1999-2000 and any subsequent year of assessment, the 9th day of March,

in the year of assessment to which the preliminary tax relates by virtue of subsection (2)(*a*).'',

(II) in paragraph (*b*), by the substitution of the following for the words from ''throughout the calendar year'' to the end of the paragraph:

''throughout—

(i) in the case of the years 1997-98 and 1998-99, the calendar year or a part of that year in which the due date for the payment of that preliminary tax in accordance with subsection (2)(*a*) falls, and

(ii) in the case of the year 1999-2000 or any subsequent year of assessment, that year,

and the Collector-General shall debit the bank account of that person with such instalments on the 9th day of each month in that calendar year or a part of that calendar year or, as the case may be, in that year.'',

and

(III) by the substitution of the following paragraph for paragraph (*c*):

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''(*c*) (i) In the case of the years 1997-98 and 1998-99, the Collector-General may at any time, notwithstanding paragraph (*b*), agree to alter the amount of preliminary tax to be debited to the bank account of the chargeable person in accordance with this subsection.

(ii) In the case of the year 1999-2000 or any subsequent year of assessment, the Collector-General may, in any particular case, in order to facilitate the payment of preliminary tax in accordance with this subsection, agree to vary the number of equal monthly instalments to be collected in a year or, after one or more monthly instalments have been paid in that year, agree to an increase or decrease in the amount to be collected in subsequent instalments in that year; but, a chargeable person shall not be treated as having paid an amount of preliminary tax in accordance with this subsection unless—

(I) the number of monthly instalments paid by that person in the year of assessment is not less than 10, and

(II) not less than 70 per cent of the amount of the preliminary tax payable by that person for that year is paid by instalments on or before the 31st day of December, in that year.''.

(2) Every order made by the Minister for Finance under this section shall be laid before Dáil Éireann as soon as may be after it is made.

Amendment of section 787 (nature and amount of relief for qualifying premiums) of Principal Act.

46.—Section 787 of the Principal Act is hereby amended, in subsection (7), by the substitution of ''on or before the specified return date for the chargeable period (within the meaning of Part 41)'' for ''on or before the 31st day of January in the year following the year of assessment''.

Amendments of Principal Act in consequence of a change in the currency of certain states.

47.—(1) The provisions of the Principal Act referred to in *Schedule 2* shall apply subject to the amendments specified in that Schedule (being amendments the purposes of which are, amongst other things, to make provision in consequence of a change in the currency of certain states).

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(2) This section shall come into operation on such day or days as the Minister for Finance may appoint by order or orders either generally or with reference to any particular provision of *Schedule 2* and different days may be so appointed for different such provisions.

Amendment of Principal Act in consequence of convention with United States of America relating to double taxation, etc.

48.—(1) Subject to *subsection (2)*, the provisions of the Principal Act referred to in *Schedule 3* shall apply subject to the amendments specified in that Schedule.

(2) (*a*) Subject to *paragraph (b)*, this section shall apply as on and from the times at which the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income and Capital Gains) (United States of America) Order, 1997 (S.I. No. 477 of 1997), has effect in accordance with paragraph 2 of Article 29 of that Convention.

(*b*) Where, in relation to a person, paragraph 3 of Article 29 of the said Convention applies in respect of the period specified in that paragraph, the Principal Act shall apply in relation to the person in respect of that period as if *subsection (1)* had not been enacted.

Amendment of Part 26 (life assurance companies) of Principal Act.

49.—(1) Part 26 of the Principal Act is hereby amended by the substitution in both section 723(6) and section 738 (2)(*c*) of ''the rate per cent of corporation tax specified in section 21(1)'' for ''the rate per cent of corporation tax specified in section 21(1)(*b*)''.

(2) This section shall apply as on and from the 6th day of April, 1997.

Amendment of section 1013 (limited partnerships) of Principal Act.

50.—(1) Section 1013 of the Principal Act is hereby amended—

(*a*) in subsection (1)—

(i) by the insertion before the definition of ''the aggregate amount'' of the following definition—

'' 'active partner', in relation to a partnership trade, means a partner who works for the greater part of his or her time on the day-to-day management or conduct of the partnership trade;'',

and

(ii) in the definition of ''limited partner''—

(I) in paragraph (*b*), by the substitution of ''reimbursed by some other person,'' for ''reimbursed by some other person, or'',

(II) in paragraph (*c*), by the substitution of ''incurred for the purposes of the trade, or'' for ''incurred for the purposes of the trade;'',

and

(III) by the insertion after paragraph (*c*) of the following paragraph:

''(*d*) a person who carries on the trade as a general partner in a partnership otherwise than as an active partner where the activities of the trade include the activity of—

(i) producing, distributing, or the holding of or of an interest in, films or video tapes, or

(ii) exploring for, or exploiting, oil or gas resources;'',

(*b*) in subsection (2)(*a*)—

(i) in subparagraph (I), by the substitution of ''gains arising from the trade,'' for ''gains arising from the trade, or'',

(ii) in subparagraph (II), by the substitution of ''profits or gains arising from the trade, or'' for ''profits or gains arising from the trade'', and

(iii) by the insertion after subparagraph (II) of the following subparagraph:

''(III) where the individual is a limited partner in relation to a trade by virtue of paragraph (*d*) of the definition of 'limited partner' and the relevant year of assessment is the year of assessment 1997-98 or any subsequent year of assessment, subject to subsection (2A), only against income consisting of profits or gains arising from the trade,'',

and

(*c*) by the insertion after subsection (2) of the following subsection:

''(2A) Subparagraph (III) of subsection (2)(*a*) shall not apply to—

(*a*) interest paid on or before the 27th day of February, 1998,

(*b*) an allowance to be made in respect of expenditure incurred on or before the 27th day of February, 1998, or

(*c*) a loss sustained in the year of assessment 1997-98 which would have been the loss sustained in that year if—

(i) that year of assessment had ended on the 27th day of February, 1998, and

(ii) the loss were determined only by reference to accounts made up in relation to the trade for the period commencing on the 6th day of April, 1997, or if later, the date the trade was set up and commenced, and ending on the 27th day of February, 1998, and not by reference to accounts made up for any other period.''.

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(2) This section shall apply as on and from the 28th day of February, 1998.

Reduction in tax credits in respect of distributions.

51.—(1) Section 4 of the Principal Act is hereby amended, with effect as on and from the 3rd day of December, 1997, in subsection (1) by the substitution for the definition of ''standard credit rate'' of the following definition:

'' 'standard credit rate' for a year of assessment means—

(*a*) for the year of assessment 1997-98—

(i) 21 per cent where it has application in relation to a distribution made or treated as having been made by a company before the 3rd day of December, 1997, and

(ii) 11 per cent where it has application in relation to a distribution made or treated as having been made by a company on or after the 3rd day of December, 1997,

and

(*b*) for the year of assessment 1998-99, 11 per cent,

and, accordingly, 'standard credit rate per cent' for the year of assessment 1997-98 means 21 or 11, as the case may be, and for the year of assessment 1998-99 means 11;''.

(2) *Schedule 4* shall have effect for the purpose of supplementing *subsection (1).*

Abolition of tax credits.

52.—The provisions of the Principal Act referred to in *Schedule 5* shall apply subject to the amendments specified in that Schedule (being amendments the purposes of which are to provide for the abolition of tax credits as respects distributions made on or after the 6th day of April, 1999).

Amendment of definition of specified qualifying shares.

53.—The Principal Act is hereby amended, in sections 723(1), 737(1) and 838(1), by the substitution, in the definition of ''specified qualifying shares'', of ''£200,000,000'' for ''£100,000,000''.

Amendment of section 198 (certain interest not to be chargeable) of Principal Act.

54.—Chapter 1 of Part 7 of the Principal Act is hereby amended in section 198—

(*a*) by renumbering the existing provision as subsection (1) of that section, and

(*b*) by the addition of the following:

''(2) In relation to interest paid in respect of a relevant security (within the meaning of section 246), subsection (1) shall apply—

(*a*) as if there were deleted from subsection (2) of section 445 ', and any certificate so given shall, unless it is revoked under subsection (4), (5) or (6), remain in force until the 31st day of December, 2005', and

(*b*) as if there were deleted from subsection (2) of section 446 ', and any certificate so given shall, unless it is revoked under subsection (4), (5) or (6), remain in force until the 31st day of December, 2005'.''.

Corporation Tax

Rate of corporation tax.

55.—(1) Section 21 of the Principal Act is hereby amended in subsection (1):

(*a*) in paragraph (*a*) by the substitution for ''March, 1997, and'' of ''March, 1997,'', and

(*b*) by the substitution for paragraph (*b*) of the following paragraphs:

''(*b*) 36 per cent for that part of the financial year 1997 beginning on the 1st day of April, 1997, and ending on the 31st day of December, 1997, and

(*c*) 32 per cent for the financial year 1998 and each subsequent financial year.''.

(2) *Schedule 6* shall have effect for the purpose of supplementing this section.

Amendment of section 22 (reduced rate of corporation tax for certain income) of Principal Act.

56.—Section 22 of the Principal Act is hereby amended in subsection (1)—

(*a*) in paragraph (*a*), by the substitution for subparagraphs (I) and (II) of the following subparagraphs:

''(I) as respects accounting periods ending before the 1st day of April, 1997, 30 per cent,

(II) as respects accounting periods ending on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 28 per cent, and

(III) as respects accounting periods ending on or after the 1st day of January, 1998, 25 per cent.'',

and

(*b*) by the substitution for paragraph (*b*) of the following paragraph:

''(*b*) For the purposes of paragraph (*a*)—

(i) where an accounting period of a company begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and the other beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated for the purposes of this section as if they were separate accounting periods of the company, and

(ii) where an accounting period of a company, including a period treated under subparagraph (i) as an accounting period, begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period

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begins and ending on the 31st day of December, 1997, and the other beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated for the purposes of this section as if they were separate accounting periods of the company.''.

Amendment of section 713 (investment income reserved for policyholders) of Principal Act.

57.—(1) Section 713(3) of the Principal Act is hereby amended—

(*a*) by the substitution of ''specified in section 21(1)'' for ''specified in section 21(1)(*b*)'', and

(*b*) by the substitution of ''in respect of the part specified in subsection (6) of the unrelieved profits'' for ''in respect of the part specified in subsection (5) of the unrelieved profits''.

(2) This section shall apply as on and from the 6th day of April, 1997.

Credit unions.

58.—(1) The Principal Act is hereby amended by the insertion, after section 219, of the following section:

''Income of credit unions.

219A.—(1) In this section 'the Act' means the Credit Union Act, 1997.

(2) Income arising to a credit union which is—

(*a*) registered as such under the Act, or

(*b*) deemed to be so registered by virtue of section 5(3) of the Act,

shall, with effect from the date of the registration or the deemed registration, as the case may be, of the credit union under the Act, be exempt from corporation tax.''.

(2) Section 212 of the Principal Act is hereby repealed.

Amendment of section 449 (credit for foreign tax not otherwise credited) of Principal Act.

59.—Section 449 of the Principal Act is hereby amended, in subsection (1), in the definition of ''relevant foreign tax''—

(*a*) in paragraph (*c*), by the deletion of ''and'',

(*b*) in paragraph (*d*), by the substitution for ''Schedule 24;'' of ''Schedule 24, and'', and

(*c*) by the addition, after paragraph (*d*), of the following paragraph:

''(*e*) which is not treated under Schedule 24 as reducing the amount of any income;''.

Relief for double taxation.

60.—The Principal Act is hereby amended as respects accounting periods ending on or after the 1st day of April, 1998, in Schedule 24—

(*a*) by the substitution for— Pt.1 S.60

''Relief from Income Tax and Corporation Tax by Means of Credit in Respect of Foreign Tax

Interpretation

1. (1) In this Schedule, except where the context otherwise requires—''

of

''Relief from Income Tax and Corporation Tax by Means of Credit in Respect of Foreign Tax

PART 1

Interpretation

1. (1) In this Schedule, except where the context otherwise requires—'',

(*b*) in paragraph 1(1), by the substitution for the definition of ''foreign tax'' of the following definition:

'' 'foreign tax' means—

(*a*) in the case of any territory in relation to which arrangements have the force of law, any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements, and

(*b*) in any other case, any tax chargeable in respect of which credit may be allowed by virtue of subparagraph (3) of paragraph 9A.'',

(*c*) by the insertion, after paragraph 9, of the following paragraphs:

''PART 2

Unilateral Relief

9A. (1) To the extent appearing from the following provisions of this paragraph, relief (in this paragraph referred to as 'unilateral relief') from corporation tax in respect of profits represented by dividends 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 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

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State in relation to a relevant dividend paid by a company resident in the territory to a company resident in the State shall be allowed against corporation tax attributable to the profits represented by the dividend.

(4) For the purposes of subparagraph (3)—

(*a*) 'tax paid under the law of a territory other than the State in relation to a relevant dividend paid by a company' means—

(i) tax which is directly charged on the dividend, whether by charge to tax, deduction of tax at source or otherwise, and the whole of which tax neither the company nor the recipient would have borne if the dividend had not been paid, and

(ii) tax paid in respect of its profits under the law of the territory by the company paying the dividend in so far as that tax is properly attributable to the proportion of the profits represented by the dividend,

(*b*) 'relevant dividend' means a dividend paid by a company resident in a territory other than the State to a company resident in the State which either directly or indirectly owns, or is a subsidiary of a company which directly or indirectly owns, not less than 25 per cent of the ordinary share capital of the company paying the dividend; for the purposes of this subparagraph one company is a subsidiary of another company if the other company owns, directly or indirectly, not less than 50 per cent of the ordinary share capital of the first company.

(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,

(*b*) for any tax which is relevant foreign tax within the meaning of section 449, or

(*c*) for any tax in respect of which credit may be allowed under section 831.

(6) Where—

(*a*) unilateral relief may be given in respect of a dividend, and

(*b*) it appears that the assessment to corporation tax made in respect of the dividends 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,

any such assessment may be made or amended as is necessary to ensure that the total amount of the dividend 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.

Dividends Paid Between Related Companies: Relief for Irish and Third Country Taxes

9B. (1) Where a foreign company pays a dividend to an Irish company and the foreign company is related to the Irish company, then for the purpose of allowing credit under any arrangements against corporation tax in respect of the dividend, there shall, subject to Part 1, be taken into account as if it were tax payable under the law of the territory in which the foreign company is resident—

(*a*) any income tax or corporation tax payable in the State by the foreign company in respect of its profits, and

(*b*) any tax which, under the law of any other territory, is payable by the foreign company in respect of its profits.

(2) Where the foreign company has received a dividend from a third company and the third company is related to the foreign company and is connected with the Irish company, then, subject to subparagraph (4), there shall be treated for the purposes of subparagraph (1) as tax paid by the foreign company in respect of its profits any underlying tax payable by the third company, to the extent that it would be taken into account under this Schedule if the dividend had been paid by a foreign company to an Irish company and arrangements had provided for underlying tax to be taken into account.

(3) Where the third company has received a dividend from a fourth company and the fourth company is related to the third company and is connected with the Irish company, then, subject to subparagraph (4), tax payable by the fourth company shall similarly be treated for the purposes of subparagraph (2) as tax paid by the third company, and so on for successive companies each of which is related to the one before and is connected with the Irish company.

(4) Subparagraphs (2) and (3) are subject to the following limitations—

(*a*) no tax shall be taken into account in respect of a dividend paid by an Irish company except corporation tax payable in the State and any tax for which that company is entitled to credit under this Schedule, and

(*b*) no tax shall be taken into account in respect of a dividend paid by a foreign company to another such company unless it could have

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been taken into account under this Schedule had the other company been an Irish company.

(5) (*a*) In this paragraph—

'foreign company' means a company resident outside the State;

'Irish company' means a company resident in the State;

'underlying tax', in relation to a dividend, means tax borne by the company paying the dividend on the relevant profits (within the meaning of paragraph (8)) in so far as it is properly attributable to the proportion of the relevant profits represented by the dividend.

(*b*) For the purposes of this paragraph—

(i) a company is related to another company if that other company—

(I) owns directly or indirectly, or

(II) is a subsidiary of a company which owns directly or indirectly,

not less than 25 per cent of the ordinary share capital of the first-mentioned company,

(ii) one company is a subsidiary of another company if the other company owns, directly or indirectly, not less than 50 per cent of the ordinary share capital of the first-mentioned company,

and

(iii) a company is connected with another company if that other company—

(I) owns directly or indirectly, or

(II) is a subsidiary of a company which owns directly or indirectly,

not less than 10 per cent of the ordinary share capital of the first-mentioned company.'',

and

(*d*) in paragraph 10, by the substitution for—

''*Miscellaneous*

10. Credit shall not be allowed''

of

''PART 3

Miscellaneous

10. Credit shall not be allowed''.

Corporate donations to eligible charities.

61.—Chapter 3 of Part 15 of the Principal Act is hereby amended by the insertion after section 486 of the following section:

''Corporate donations to eligible charities.

486A.—(1) In this section—

'authorisation' shall be construed in accordance with subsection (2);

'eligible charity' means any body in the State that is the holder of an authorisation that is in force;

'qualifying donation' shall be construed in accordance with subsection (8).

(2) Subject to subsection (3), the Revenue Commissioners may, on application to them in such form as they may determine, or in a form to the like effect, by a body in the State, and on the furnishing by the body to the Revenue Commissioners of such information as they may reasonably require for the purpose of their functions under this section, issue to the body a document ('an authorisation') stating that the body is an eligible charity for the purposes of this section.

(3) An authorisation shall not be issued to a body unless it shows to the satisfaction of the Revenue Commissioners that—

(*a*) it is a body of persons or a trust established for charitable purposes only,

(*b*) the income of the body is applied for charitable purposes only,

(*c*) before the date of the making of the application concerned under subsection (2), it has been granted exemption from tax for the purposes of section 207 for a period of not less than 3 years,

(*d*) it provides such other information to the Revenue Commissioners as they may require for the purposes of their functions under this section, and

(*e*) it complies with such conditions, if any, as the Minister for Justice, Equality and Law Reform may, from time to time, specify for the purposes of this section.

(4) An eligible charity shall publish such information in such manner as the Minister for Finance may reasonably require, including audited accounts of the charity comprising—

(*a*) an income and expenditure account or a profit and loss account, as appropriate, for its most recent accounting period, and

(*b*) a balance sheet as at the last day of that period.

(5) Notwithstanding any obligations as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise, the Revenue Commissioners may make available to any person the name and address of an eligible charity.

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(6) Subject to subsection (7), an authorisation shall have effect for such period, not exceeding 5 years, as the Revenue Commissioners may determine and specify therein.

(7) Where the Revenue Commissioners are satisfied that an eligible charity has ceased to comply with subsection (3) or (4), they shall, by notice in writing served by registered post on the charity, withdraw the authorisation of the charity and the withdrawal shall apply and have effect from such date, subsequent to the date of the notice, as is specified therein.

(8) For the purposes of this section, a donation to an eligible charity is a qualifying donation if—

(*a*) it is made by a company,

(*b*) it is made on or after the 6th day of April, 1998, and

(*c*) it satisfies the requirements of subsection (9).

(9) A donation made by a company in an accounting period of the company satisfies the requirements of this subsection if—

(*a*) it takes the form of the payment of one or more sums of money,

(*b*) it is not subject to a condition as to repayment,

(*c*) neither the company nor any person connected with it receives a benefit in consequence of making the donation,

(*d*) it is not conditional on or associated with, or part of an arrangement involving, the acquisition of property by the eligible charity, otherwise than by way of gift, from the donor company or a person connected with it,

(*e*) but for subsection (10)—

(i) it would not be deductible in computing for the purposes of corporation tax the profits or gains of a trade or profession, and

(ii) it would not be an expense of management deductible in computing the total profits of a company,

and

(*f*) it is not income to which section 792 applies.

(10) Where a company makes a qualifying donation in any accounting period and claims relief from tax by reference thereto, the amount thereof shall, for the purposes of corporation tax, be treated as—

(*a*) a deductible trading expense of a trade carried on by the company, or

(*b*) an expense of management deductible in computing the total profits of the company,

for that accounting period.

(11) A claim under this section shall be made with the return required to be delivered under section 951 for the accounting period in which the qualifying donation is made.

(12) Relief under this section shall not be given—

(*a*) in respect of a qualifying donation made by a company in any accounting period to an eligible charity—

(i) if the amount of the qualifying donation, or the aggregate of the amount of qualifying donations made by the company in the period, does not exceed £250, or

(ii) to the extent to which the amount of the qualifying donation, or the aggregate of the amount of qualifying donations, aforesaid, exceeds £10,000,

or

(*b*) to the extent to which the aggregate of the amount of all qualifying donations made by a company in any accounting period to more than one eligible charity, exceeds the lesser of—

(i) £50,000, or

(ii) 10 per cent of the profits, before account is taken of the relief under this section, of the company for the accounting period.

(13) Where a qualifying donation is made by a company in an accounting period of the company which is less than 12 months, the amounts of £10,000 and £50,000 specified in subsection (12) shall be proportionately reduced.''.

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Relief for investment in renewable energy generation.

62.—(1) Chapter 3 of Part 15 of the Principal Act is hereby amended by the insertion after section 486A (inserted by *section 61*) of the following section:

"Relief for investment in renewable energy generation.

486B.—(1) In this section—

'authorised officer' means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section;

'commencement date' means the day on which *section 62* of the *Finance Act, 1998*, comes into operation;

'the Minister' means the Minister for Public Enterprise;

'new ordinary shares' means new ordinary shares forming part of the ordinary share capital of a qualifying company which, throughout the period of five years commencing on the date such shares are issued, carry no present or future preferential right to dividends, or to a company's assets on its winding up, and no present or future preferential right to be redeemed;

'qualifying company' means a company which—

(*a*) is incorporated in the State,

(*b*) is resident in the State and not resident elsewhere, and

(*c*) exists solely for the purposes of undertaking a qualifying energy project;

'qualifying energy project' means a renewable energy project in respect of which the Minister has given a certificate under subsection (2) which has not been revoked under that subsection;

'qualifying period' means the period commencing on the commencement date and ending on the day before the third anniversary of that date;

'relevant cost' in relation to a qualifying energy project means the amount of the capital expenditure incurred or to be incurred by the qualifying company for the purposes of undertaking the qualifying energy project reduced by an amount equal to such part of that expenditure as—

(*a*) is attributable to the acquisition of, or of rights in or over, land, and

(*b*) has been or is to be met directly or indirectly by the State or by any person other than the qualifying company;

'relevant deduction' means, subject to subsections (4) and (5), a deduction of an amount equal to a relevant investment;

'relevant investment' means a sum of money which is— Pt.1 S.62

(*a*) paid in the qualifying period by a company on its own behalf to a qualifying company in respect of new ordinary shares in the qualifying company and is paid by the company directly to the qualifying company,

(*b*) paid by the company for the purposes of enabling the qualifying company to undertake a qualifying energy project, and

(*c*) used by the qualifying company within 2 years of the receipt of that sum for those purposes,

but does not include a sum of money paid to the qualifying company on terms which provide that it will be repaid, and a reference to the making of a relevant investment shall be construed as a reference to the payment of such a sum to a qualifying company;

'renewable energy project' means a renewable energy project (including a project successful in the Third Alternative Energy Requirement Competition (AER III — 1997) initiated by the Minister) in one or more of the following categories of technology—

(*a*) solar power,

(*b*) windpower,

(*c*) hydropower, and

(*d*) biomass.

(2) (*a*) (i) The Minister, on the making of an application by a qualifying company, may give a certificate to the qualifying company stating, in relation to a renewable energy project to be undertaken by the company, that the renewable energy project is a qualifying energy project for the purposes of this section.

(ii) An application under this section shall be in such form, and shall contain such information, as the Minister may direct.

(*b*) A certificate given by the Minister under paragraph (*a*) shall be subject to such conditions as the Minister may consider proper and specifies in the certificate.

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(*c*) The Minister may amend or revoke any condition (including a condition amended by virtue of this paragraph) specified in such a certificate; the Minister shall give notice in writing to the qualifying company concerned of the amendment or revocation and, on such notice being given, this section shall apply as if—

(i) a condition so amended and the amendment of which is specified in the notice was specified in the certificate, and

(ii) a condition so revoked and the revocation of which is specified in the notice was not specified in the certificate.

(*d*) A reference in paragraph (*c*) to the amendment of a condition specified in a certificate includes a reference to the addition of any matter, by way of a further condition, to the terms of the certificate.

(*e*) Where a company fails to comply with any of the conditions specified in a certificate issued to it under paragraph (*a*)—

(i) that failure shall constitute the failure of an event to happen by reason of which relief is to be withdrawn under subsection (6), and

(ii) the Minister may, by notice in writing served by registered post on the company, revoke the certificate.

(3) Subject to this section, where in an accounting period a company makes a relevant investment, it shall, on making a claim in that behalf, be given a relevant deduction from its total profits for the accounting period; but, where the amount of the relevant deduction to which the company is entitled under this section in an accounting period exceeds its profits for that accounting period, an amount equal to that excess shall be carried forward to the succeeding accounting period and the amount so carried forward shall be treated for the purposes of this section as if it were a relevant investment made in that succeeding accounting period.

(4) Where in any period of 12 months ending on the day before an anniversary of the commencement date, the amount or the aggregate amount of the relevant investments made, or

treated as made, by a company, or by the company and all companies which at any time in that period would be regarded as connected with the company, exceeds £10,000,000—

(*a*) no relief shall be given under this section in respect of the amount of the excess, and

(*b*) where there is more than one relevant investment, the inspector or, on appeal, the Appeal Commissioners shall make such apportionment of the relief available as shall be just and reasonable to allocate to each relevant investment a due proportion of the relief available and, where necessary, to grant to each company concerned an amount of relief proportionate to the amount of the relevant investment or the aggregate amount of the relevant investments made by it in the period.

(5) Relief under this section shall not be given in respect of a relevant investment which is made at any time in a qualifying company if, at that time, the aggregate of the amounts of that relevant investment and all other relevant investments made in the qualifying company at or before that time exceeds an amount equal to—

(*a*) 50 per cent of the relevant cost of the project, or

(*b*) £7,500,000,

whichever is the lesser.

(6) (*a*) A claim to relief under this section may be allowed at any time after the time specified in paragraph (*c*) in respect of the payment of a sum to a qualifying company if—

(i) that payment, if it is used, within 2 years of its being paid, by the qualifying company for the purposes of a qualifying energy project, will be a relevant investment, and

(ii) all the conditions specified in this section for the giving of the relief are or will be satisfied,

but the relief shall be withdrawn if, by reason of the happening of any subsequent event including the revocation by the Minister of a certificate under subsection (2) or the failure of an event to happen which at the time the relief was given was expected to

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happen, the company making the claim was not entitled to the relief allowed.

(*b*) Where a company has made a relevant investment by means of a subscription for new ordinary shares of a qualifying company and any of those shares are disposed of at any time within 5 years after the time specified in paragraph (*c*), a claim to relief under this section shall not be allowed in respect of the amount subscribed for those shares, and if any such relief has been given, it shall be withdrawn.

(*c*) The time referred to in paragraph (*a*) and paragraph (*b*) is the time when the payment in respect of which relief is claimed has been made.

(7) A claim for relief in respect of a relevant investment in a company shall not be allowed unless it is accompanied by a certificate issued by the company in such form as the Revenue Commissioners may direct and certifying that the conditions for the relief, in so far as they apply to the company and the qualifying energy project, are or will be satisfied in relation to that relevant investment.

(8) Before issuing a certificate for the purposes of subsection (7), a qualifying company shall furnish the authorised officer with—

(*a*) a statement to the effect that it satisfies or will satisfy the conditions for the relief in so far as they apply in relation to the company and the qualifying energy project,

(*b*) a copy of the certificate, including a copy of any notice given by the Minister specifying the amendment or revocation of a condition specified in that certificate, under subsection (2) in respect of the qualifying energy project, and

(*c*) such other information as the Revenue Commissioners may reasonably require.

(9) A certificate to which subsection (7) relates shall not be issued—

(*a*) without the authority of the authorised officer, or

(*b*) in relation to a relevant investment in respect of which relief may not be given by virtue of subsection (5).

(10) Any statement under subsection (8) shall— Pt.1 S.62

(*a*) contain such information as the Revenue Commissioners may reasonably require,

(*b*) be in such form as the Revenue Commissioners may direct, and

(*c*) contain a declaration that it is correct to the best of the company's knowledge and belief.

(11) Where a qualifying company has issued a certificate for the purposes of subsection (7) or furnished a statement under subsection (8) and either—

(*a*) the certificate or statement is false or misleading in a material respect and is so false or misleading due to fraud or neglect, or

(*b*) the certificate was issued in contravention of subsection (9),

then—

(i) the company shall be liable to a penalty not exceeding £500 or, in the case of fraud, not exceeding £1,000, and such penalty may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in the like manner as in summary proceedings for the recovery of any fine or penalty under any Act relating to the excise, and

(ii) no relief shall be given under this section in respect of the matter to which the certificate or statement relates and, if any such relief has been given, it shall be withdrawn.

(12) A company shall not be entitled to relief in respect of a relevant investment unless the relevant investment—

(*a*) has been made for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax,

(*b*) has been or will be used for the purposes of undertaking a qualifying energy project, and

(*c*) is made at the risk of the company and neither the company nor any person who would be regarded as connected

with the company is entitled to receive any payment in money or money's worth or other benefit directly or indirectly borne by or attributable to the qualifying company, other than a payment made on an arm's length basis for goods or services supplied or a payment out of the proceeds of exploiting the qualifying energy project to which the company is entitled under the terms subject to which the relevant investment is made.

(13) Where any relief has been given under this section which is subsequently found not to have been due or is to be withdrawn by virtue of subsection (6) or (11), that relief shall be withdrawn by making an assessment to corporation tax, under Case IV of Schedule D, for the accounting period or accounting periods in which relief was given and, notwithstanding anything in the Tax Acts, such an assessment may be made at any time.

(14) (*a*) Subject to paragraph (*b*), where a company is entitled to relief under this section in respect of any sum or any part of a sum, or would be so entitled on duly making a claim in that behalf, as a relevant deduction from its total profits for any accounting period, it shall not be entitled to any relief for that sum or that part of a sum, in computing its income or profits, or as a deduction from its income or profits, for any accounting period under any other provision of the Tax Acts or the Capital Gains Tax Acts.

(*b*) Where a company has made a relevant investment by means of a subscription for new ordinary shares of a qualifying company and none of those shares is disposed of by the company within five years of their acquisition by that company, then, the sums allowable as deductions from the consideration ('the consideration concerned') in the computation for the purpose of capital gains tax of the gain or loss accruing to the company on the disposal of those shares shall be determined without regard to any relief under this section which the company has obtained, or would be entitled, on duly making a claim in that behalf, to obtain, except that, where those sums exceed the consideration concerned, they shall be reduced by an amount equal to the lesser of—

(i) the amount of the relevant deduction allowed to the company under this section in respect of the subscription for those shares, and

(ii) the amount of the excess.''.

(2) This section shall come into operation on such day as the Minister for Finance appoints by order.

Amendment of section 88 (deduction for gifts to Enterprise Trust Ltd.) of Principal Act.

63.—Section 88 of the Principal Act is hereby amended in subsection (3)(*b*)—

(*a*) by the deletion of subparagraph (ii), and

(*b*) by the substitution of ''£3,000,000'' for ''£1,500,000'' in subparagraph (iii).

Amendment of section 715 (annuity business: separate charge on profits) of Principal Act.

64.—(1) Section 715 of the Principal Act is hereby amended in subsection (2) by the substitution for paragraph (*a*) of the following paragraph:

''(*a*) (i) subject to subparagraphs (ii), (iii) and (iv), subsection (1) of section 710 shall apply with the necessary modifications and in particular shall apply as if there were deleted from that subsection all references to policyholders other than holders of policies referable to pension business,

(ii) where apart from this subparagraph any profits would be excluded in making the computation solely by virtue of that part being reserved for holders of policies referable to pension business, that part shall not be so excluded,

(iii) in relation to investments of any fund representing the amount of the liabilities of the company to policyholders in respect of its pension business or general annuity business, as the case may be,

(I) any increase in value of those investments (whether realised or unrealised) shall be taken into account as a receipt, and

(II) any decrease in value of those investments (whether realised or unrealised) shall be taken into account as an expense,

to the extent that the increase or decrease, as the case may be, is included in the value of those liabilities as valued by the actuary to the company, and

(iv) where the profits of an assurance company for an accounting period (in this subparagraph referred to as 'the first accounting period') are computed in accordance with subparagraph (iii) and the profits of the most recent preceding

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accounting period are not so computed, the increase or decrease in the value of investments referred to in subparagraph (iii) shall as respects the first accounting period be computed by reference to the cost of the investments at the time they were acquired by the company and such increase or decrease shall be treated as a receipt or as an expense, as the case may be.''.

(2) This section shall apply as respects an accounting period of a company ending on or after the 4th day of March, 1998.

Chapter 5

Capital Gains Tax

Capital gains: rates of charge.

65.—(1) The Principal Act is hereby amended—

(*a*) in section 28, by the substitution in subsection (3) of ''20 per cent'' for ''40 per cent'',

(*b*) in section 594, by the insertion after paragraph (*e*) of subsection (2) of the following paragraph:

''(*f*) Notwithstanding subsection (3) of section 28, the rate of capital gains tax in respect of a relevant gain accruing to a person shall be 40 per cent'',

and

(*c*) in Chapter 2 of Part 22, by the insertion after section 649 of the following section:

''Relevant disposals: rate of charge.

649A.—Notwithstanding subsection (3) of section 28, the rate of capital gains tax in respect of chargeable gains accruing to a person on relevant disposals, other than a relevant disposal to which section 650 refers, shall be 40 per cent.''.

(2) *Subsection (1)* shall apply—

(*a*) as respects *paragraphs* (*a*) and (*c*), in relation to disposals made on or after the 3rd day of December, 1997, and

(*b*) as respects *paragraph* (*b*), in relation to disposals made on or after the 12th day of February, 1998.

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

66.—The Principal Act is hereby amended in Part 27 by the insertion after Chapter 2 of the following Chapter:

''CHAPTER 3

Offshore funds: supplementary provisions

Capital gains tax: rate of charge.

747A.—(1) In this section 'material interest', 'non-qualifying fund' and 'offshore fund' shall have the same meaning as is assigned to them in Chapter 2 of this Part.

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(2) This section shall apply to a disposal, on or after the 12th day of February, 1998, by a person of an asset, if at the time of the disposal—

(*a*) the asset constitutes a material interest in an offshore fund which is not nor was at any material time a non-qualifying offshore fund, or

(*b*) the asset constitutes an interest in a company resident in the State or in a unit trust scheme, the trustees of which are at that time resident in the State and at a material time on or after the 1st day of January, 1991, the company or unit trust scheme was an offshore fund other than a non-qualifying offshore fund and the asset constituted a material interest in that fund.

(3) Subsections (2) to (7) of section 741 shall apply for the purposes of this section as if references in those subsections to a non-qualifying offshore fund were references to an offshore fund.

(4) Notwithstanding subsection (3) of section 28, the rate of capital gains tax in respect of chargeable gains accruing to a person on the disposal of an asset to which this section applies shall be 40 per cent.''.

Amendment of section 538 (disposals where assets lost or destroyed or become of negligible value) of Principal Act.

67.—(1) Section 538 of the Principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

''(2A) (*a*) Where as a result of the dissolution of a body corporate, property of the body corporate becomes property of the State by virtue of Part III of the State Property Act, 1954, and the Minister for Finance, in accordance with that Part of that Act, waives the right of the State to that property in favour of a person who holds or has held shares in the body corporate, then, notwithstanding section 31 and subject to paragraph (*c*), any allowable loss (in this subsection referred to as a 'claimed loss') accruing to the person by virtue of a claim made under subsection (2) in respect of those shares shall not be allowable as a deduction from chargeable gains in any year of assessment earlier than the year of assessment in which the property is disposed of by the person and any necessary adjustments may be made by way of assessment or additional assessment to give effect to this paragraph.

(*b*) Paragraph (*a*) shall apply in relation to a body corporate which has no share capital as if references to shares included references to any interest in the body corporate possessed by members of the body corporate.

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(*c*) For the purposes of paragraph (*a*)—

(i) where in a year of assessment there is a part disposal (within the meaning of section 534) of property, only so much of the claimed loss shall be allowable as a deduction from chargeable gains in that year of assessment as bears to the amount of the claimed loss the same proportion as the market value, when acquired, of the part of the property which is disposed of bears to the market value of the whole of that property when acquired,

(ii) the year of assessment in which property is disposed of by a person, where the disposal, being a disposal to the husband or wife of the person, is a disposal to which section 1028(5) applies, shall mean the year of assessment in which the property is subsequently disposed of by the person's wife or husband, as the case may be, where the subsequent disposal is a disposal to which section 1028(5) does not apply.''.

(2) This section shall apply as respects a waiver of the right of the State to property on or after the 12th day of February, 1998.

Amendment of section 547 (disposals and acquisitions treated as made at market value) of Principal Act.

68.—(1) Section 547 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (1):

''(1A) (*a*) Notwithstanding subsection (1), where, by virtue of section 31 of the State Property Act, 1954, the Minister for Finance waives, in favour of a person, the right of the State to property, the person's acquisition of the property shall for the purposes of the Capital Gains Tax Acts be deemed to be for a consideration equal to the amount (including a nil amount) of the payment of money made by the person as one of the terms of that waiver.''.

(2) This section shall apply as respects the acquisition of an asset on or after the 12th day of February, 1998.

Amendment of Chapter 3 (assets held in fiduciary or representative capacity, inheritances and settlements) of Part 19 of Principal Act.

69.—(1) Chapter 3 of Part 19 of the Principal Act is hereby amended, by the insertion of the following section after section 577—

''Relinquishing of a life interest by the person entitled.

577A.—Where by virtue of section 576(1) the assets forming part of any settled property are deemed to be disposed of and immediately reacquired by the trustee on the occasion when a person becomes absolutely entitled to the assets as against the trustee, then, in case that occasion is the relinquishing of a life interest (within the meaning of section 577) by the person entitled to that interest, the trustee shall be given such relief as would be given under sections 598 and 599 to the person who relinquished the life interest—

(*a*) if the person had become absolutely entitled to the assets as against the

trustee at the commencement of the life interest and had continued to be so entitled throughout the period (in this section referred to as the 'life interest period') that the life interest subsisted, and

(*b*) as if any expenditure of the kind referred to in paragraph (*b*) of section 552(1) that was incurred on the assets during the life interest period by the trustee had been incurred by the person.''.

(2) This section shall apply as respects a disposal deemed to be made on or after the 12th day of February, 1998.

Repeal of section 592 (reduced rate of capital gains tax on certain disposals of shares by individuals) of Principal Act.

70.—(1) Section 592 of the Principal Act is hereby repealed.

(2) This section shall apply as respects disposals made on or after the 3rd day of December, 1997.

Amendment of section 597 (replacement of business and other assets) of Principal Act.

71.—(1) Section 597 of the Principal Act is hereby amended, in subsection (3), by the substitution for paragraph (*c*) of the following paragraphs:

''(*c*) goodwill,

(*d*) any financial assets owned by a body of persons referred to in paragraph (*f*) of subsection (2); for the purposes of this paragraph 'financial assets' means shares of any company and stocks, bonds and obligations of any government, municipal corporation, company or other body corporate.''.

(2) This section shall apply as respects disposals made on or after the passing of this Act.

Amendment of section 598 (disposals of business or farm on ''retirement'') of Principal Act.

72.—(1) Section 598 of the Principal Act is hereby amended in subsection (1)—

(*a*) in the definition of ''qualifying assets''—

(i) by the substitution for paragraph (i) of the following:

''(i) the chargeable business assets of the individual which apart from tangible moveable property he or she has owned for a period of not less than 10 years ending with the disposal and which have been his or her chargeable business assets throughout the period of 10 years ending with that disposal,'',

(ii) by the substitution, in paragraph (ii), of ''for a period of not less than 5 years, and'' for ''for a period of not less than 5 years;'',

and

(iii) by the insertion after paragraph (ii) of the following:

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''(iii) land used for the purposes of farming carried on by the individual which he or she owned and used for that purpose for a period of not less than 10 years ending with the transfer of an interest in that land for the purposes of complying with the terms of the Scheme;'',

and

(*b*) by the insertion after the definition of ''qualifying assets'' of the following:

'' 'the Scheme' means the scheme known as the Scheme of Early Retirement From Farming introduced by the Minister for Agriculture and Food for the purpose of implementing Council Regulation (EEC) No. 2079/92 of 30 June 1992*;''.

(2) This section shall apply as respects a disposal of an asset on or after the 6th day of April, 1998.

Amendment of section 652 (non-application of reliefs on replacement of assets in case of relevant disposals) of Principal Act.

73.—(1) Section 652 of the Principal Act is hereby amended by the insertion of the following subsections after subsection (3)—

''(3A) (*a*) In this subsection—

'greyhound race', 'greyhound race track' and 'greyhound race track licence' have the same meanings respectively as in section 2 of the Greyhound Industry Act, 1958;

'assets of an authorised greyhound race track' means assets of a greyhound race track which is an authorised greyhound race track where the assets are used for the provision of appropriate facilities or services to hold greyhound races or to accommodate persons associated with greyhound racing, including members of the public;

'authorised greyhound race track' means a greyhound race track in respect of which a greyhound race track licence has been granted, and that licence has not been revoked.

(*b*) Subject to paragraph (*c*), subsection (1) shall not apply to consideration obtained for a relevant disposal where—

(i) throughout a period of 5 years ending with the time of disposal the old assets, and

(ii) the new assets within the meaning of section 597,

are assets of an authorised greyhound race track.

(*c*) Section 597 shall apply in relation to assets of an authorised greyhound race track as if—

(i) references in subsections (4) and (5) of that section to new assets ceasing to be used for the purposes of a trade included a reference to new assets ceasing to be assets of an authorised greyhound race track, and

*O.J. No. L215 of 30.7.1992 p.91.

(ii) subsection (11)(*b*) had not been enacted. Pt.1 S.73

(3B) Subsection (1) shall not apply to consideration obtained for a relevant disposal effected by an order made under section 28(1) of the Dublin Docklands Development Authority Act, 1997.''.

(2) This section shall apply in respect of relevant disposals made on or after the 6th day of April, 1998.

Amendment of section 980 (deduction from consideration on disposal of certain assets) of Principal Act.

74.—Section 980 of the Principal Act is hereby amended, as respects disposals made on or after the passing of this Act, in subsection (3), by the substitution of ''£150,000'' for ''£100,000''.

Amendment of section 1028 (married persons) of Principal Act.

75.—Section 1028 of the Principal Act is hereby amended, as respects the year of assessment 1998-99 and subsequent years of assessment, by the deletion of subsection (4).

Chapter 6

Income Tax and Corporation Tax: Reliefs for Renewal and Improvement of Certain Urban and Rural Areas

Amendment of Part 10 (income tax and corporation tax: reliefs for renewal and improvement of certain urban areas, certain resort areas and certain islands) of Principal Act.

76.—Part 10 of the Principal Act is hereby amended by the insertion after Chapter 6 of the following:

''CHAPTER 7

Qualifying areas

Interpretation and application (Chapter 7).

372A.—(1) In this Chapter—

'lease', 'lessee', 'lessor', 'premium' and 'rent' have the same meanings respectively as in Chapter 8 of Part 4;

'market value', in relation to a building, structure or house, means the price which the unencumbered fee simple of the building, structure or house 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, structure or house, 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, structure or house is constructed;

'multi-storey car park' means a building or structure consisting of 2 or more storeys wholly or mainly in use for the purpose of providing, for members of the public generally without preference for any particular class of person, on payment of an appropriate charge, parking space for mechanically propelled vehicles;

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'qualifying area' means an area or areas specified as a qualifying area under section 372B;

'qualifying period' means, subject to section 372B, the period commencing on the 1st day of August, 1998, and ending on the 31st day of July, 2001;

'refurbishment', in relation to a building or structure and other than for the purposes of sections 372H and 372I, 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 the repair or restoration, or maintenance in the nature of repair or restoration, of the building or structure.

(2) This Chapter shall apply if the Oireachtas passes an Act which refers to this Chapter and provides for the renewal of certain urban areas and the submission of plans (to be known as 'Integrated Area Plans') to the Minister for the Environment and Local Government which have been drawn up by local authorities or companies established by local authorities (being local authorities as referred to in such Act) in respect of an area or areas identified by such an authority or company on the basis of criteria prepared by that Minister, including physical and socio-economic renewal of such an area or areas.

Qualifying areas.

372B.—(1) The Minister for Finance may, on the recommendation of the Minister for the Environment and Local Government (which recommendation shall take into consideration an Integrated Area Plan submitted by a local authority or a company established by a local authority to that Minister in respect of an area identified by it), by order direct that—

(*a*) the area or areas described (being wholly located within the boundaries of the area to which the Integrated Area Plan relates) in the order shall be a qualifying area for the purposes of one or more sections of this Chapter,

(*b*) where such an area or areas is or are to be a qualifying area for the purposes of section 372D, one or more of the categories of building or structure mentioned in subsection (2) shall or shall not be a qualifying premises within the meaning of that section, and

(*c*) as respects any such area so described in the order, the definition of 'qualifying period' in section 372A shall be construed as a reference to such period as shall be specified in the order in relation to that area; but no such period specified in the order shall commence before the 1st day of August, 1998, or end after—

(i) in the case of sections 372C, 372D and 372E, the 31st day of December, 1999, and

(ii) in any other case, the 31st day of July, 2001.

(2) The categories of building or structure referred to in subsection (1)(*b*) shall be—

(*a*) buildings or structures which consist of office accommodation,

(*b*) multi-storey car parks, and

(*c*) any other buildings or structures and in respect of which not more than 10 per cent of the capital expenditure incurred in the qualifying period on their construction or refurbishment relates to the construction or refurbishment of office accommodation.

(3) Every order made by the Minister for Finance under subsection (1) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(4) Notwithstanding an order under subsection (1), the granting of relief by virtue of any provision of this Chapter shall be subject to such other requirements as may be specified in or under the Act referred to in section 372A(2).

Accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures.

372C.—(1) This section shall apply to a building or structure the site of which is wholly within a qualifying area and which is to be an industrial building or structure by reason of its use for a purpose specified in section 268(1)(*a*).

(2) Subject to subsection (4), section 271 shall apply in relation to capital expenditure

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incurred in the qualifying period on the construction or refurbishment of a building or structure to which this section applies as if—

(*a*) in subsection (1) of that section the definition of 'industrial development agency' were deleted,

(*b*) in subsection (2) (*a*) (i) of that section 'to which subsection (3) applies' were deleted,

(*c*) subsection (3) of that section were deleted,

(*d*) the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be of an amount equal to 25 per cent of the capital expenditure mentioned in subsection (2).',

and

(*e*) in subsection (5) of that section 'to which subsection (3)(*c*) applies' were deleted.

(3) Subject to subsection (4), section 273 shall apply 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 subsection (1) of that section the definition of 'industrial development agency' were deleted,

(*b*) the following paragraph were substituted for paragraph (*b*) of subsection (2) of that section:

'(*b*) As respects any qualifying expenditure, any allowance made under section 272 and increased under paragraph (*a*) in respect of that expenditure, whether claimed for one chargeable period or more than one such period, shall not in the aggregate exceed 50 per cent of the amount of that qualifying expenditure.',

and

(*c*) subsections (3) to (7) of that section were deleted.

(4) 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, subsections (2) and (3) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 10 per cent of the market value of the building or structure immediately before that expenditure was incurred.

(5) Notwithstanding section 274(1), no balancing charge shall be made in relation to a building or structure to which this section applies by reason of any of the events specified in that section which occurs—

(*a*) more than 13 years after the building or structure was first used, or

(*b*) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the building or structure was incurred.

(6) For the purposes only of determining, in relation to a claim for an allowance under section 271 or 273 as applied by this section, whether and to what extent capital expenditure incurred on the construction or refurbishment of an industrial building or structure is incurred or not incurred in the qualifying period, only such an amount of that capital expenditure as is properly attributable to work on the construction or, as the case may be, the 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 construction or refurbishment of certain commercial premises.

372D.—(1) In this section, 'qualifying premises' means a building or structure the site of which is wholly within a qualifying area and which—

(*a*) apart from this section is not an industrial building or structure within the meaning of section 268, and

(*b*) (i) is in use for the purposes of a trade or profession, or

(ii) whether or not it is so used, is let on bona fide commercial terms for such consideration as might be expected to be

paid in a letting of the building or structure negotiated on an arm's length basis,

but does not include any part of a building or structure in use as or as part of a dwelling house.

(2) (*a*) Subject to paragraph (*b*) and subsections (3) to (6), the provisions of the Tax Acts (other than section 372C) relating to the making of allowances or 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 a 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 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 10 per cent of the market value of the qualifying premises immediately before that expenditure was incurred.

(4) For the purposes of the application, by subsection (2), of sections 271 and 273 in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises—

(*a*) section 271 shall apply as if—

(i) in subsection (1) of that section the definition of 'industrial development agency' were deleted,

(ii) in subsection (2)(*a*)(i) of that section 'to which subsection (3) applies' were deleted,

(iii) subsection (3) of that section were deleted,

(iv) the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be of an amount equal to 50 per cent of the capital expenditure mentioned in subsection (2).',

and

(v) in subsection (5) of that section 'to which subsection (3)(*c*) applies' were deleted,

and

(*b*) section 273 shall apply as if—

(i) in subsection (1) of that section the definition of 'industrial development agency' were deleted, and

(ii) subsections (2)(*b*) and (3) to (7) of that section were deleted.

(5) Notwithstanding section 274(1), no balancing charge shall be made in relation to a qualifying premises by reason of any of the events specified in that section which occur—

(*a*) more than 13 years after the qualifying premises was first used, or

(*b*) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the qualifying premises was incurred.

(6) (*a*) Notwithstanding subsections (2) to (4), any allowance or charge which apart from this subsection would be made by virtue of subsection (2) in respect of capital

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expenditure incurred on the construction or refurbishment of a qualifying premises shall be reduced to one-half of the amount which apart from this subsection would be the amount of that allowance or charge.

(*b*) For the purposes of paragraph (*a*), the amount of an allowance or charge to be reduced to one-half shall be computed as if—

(i) this subsection had not been enacted, and

(ii) effect had been given to all allowances taken into account in so computing that amount.

(*c*) Nothing in this subsection shall affect the operation of section 274(8).

(7) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (2), 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, only such an amount of that capital expenditure as is properly attributable to work on the construction or 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.

Double rent allowance in respect of rent paid for certain business premises.

372E.—(1) In this section—

'qualifying lease' means, subject to subsection (8), a lease in respect of a qualifying premises granted in the qualifying period on bona fide commercial terms by a lessor to a lessee not connected with the lessor, or with any other person entitled to a rent in respect of the qualifying premises, whether under that lease or any other lease;

'qualifying premises' means, subject to subsection (5)(*a*), a building or structure—

(*a*) (i) the site of which is wholly within a qualifying area and which is a building or structure in use for a purpose specified in section 268(1)(*a*), and in respect of which capital expenditure is incurred in

the qualifying period for which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax or corporation tax, as the case may be, under section 271 or 273, as applied by section 372C,

(ii) the site of which is wholly within a qualifying area and in respect of which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by virtue of section 372D, or

(iii) the site of which is wholly within a qualifying area and which is a building or structure in use for the purposes specified in section 268(1)(*d*), and in respect of the construction or refurbishment of which capital expenditure is incurred in the qualifying period for which an allowance would but for subsection (6) be made for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9,

and

(*b*) which is let on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure negotiated on an arm's length basis,

but, where capital expenditure is incurred in the qualifying period on the refurbishment of a building or structure in respect of which an allowance is to be made, or will by virtue of section 279 be made, or in respect of which an allowance would but for subsection (6) be made, for the purposes of income tax or corporation tax, as the case may be, under any of the provisions referred to in paragraph (*a*), the building or structure shall not be regarded as a qualifying premises unless the total amount of the expenditure so incurred is not less than an amount equal to 10 per cent of the market value of the building or structure immediately before that expenditure is incurred.

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(2) For the purposes of this section, so much of a period, being a period when rent is payable by a person in relation to a qualifying premises under a qualifying lease, shall be a relevant rental period as does not exceed—

(*a*) 10 years, or

(*b*) the period by which 10 years exceeds—

(i) any preceding period, or

(ii) if there is more than one preceding period, the aggregate of those periods,

for which rent was payable by that person or any other person in relation to that premises under a qualifying lease.

(3) Subject to subsection (4), where in the computation of the amount of the profits or gains of a trade or profession a person is apart from this section entitled to any deduction (in this subsection referred to as 'the first-mentioned deduction') on account of rent in respect of a qualifying premises occupied by such person for the purposes of that trade or profession which is payable by such person for a relevant rental period in relation to that qualifying premises under a qualifying lease, such person shall be entitled in that computation to a further deduction (in this subsection referred to as 'the second-mentioned deduction') equal to the amount of the first-mentioned deduction but where the first-mentioned deduction is on account of rent payable by such person to a connected person, such person shall not be entitled in that computation to the second-mentioned deduction.

(4) Where a person holds an interest in a qualifying premises out of which interest a qualifying lease is created directly or indirectly in respect of the qualifying premises and in respect of rent payable under the qualifying lease a claim for a further deduction under this section is made, and either such person or another person connected with such person—

(*a*) takes under a qualifying lease a qualifying premises (in this subsection referred to as 'the second-mentioned premises') occupied by such person or such other person, as the case may be, for the purposes of a trade or profession, and

(*b*) is apart from this section entitled, in the computation of the amount of the profits or gains of that trade or profession, to a deduction on account of rent in respect of the second-mentioned premises,

then, unless such person or such other person, as the case may be, shows that the taking on lease of the second-mentioned premises was not undertaken for the sole or main benefit of obtaining a further deduction on account of rent under this section, such person or such other person, as the case may be, shall not be entitled in the computation of the amount of the profits or gains of that trade or profession to any further deduction on account of rent in respect of the second-mentioned premises.

(5) (*a*) A building or structure in use for the purposes specified in section 268(1)(*d*) shall not be a qualifying premises for the purposes of this section unless the person to whom an allowance under Chapter 1 of Part 9 would but for subsection (6) be made for the purposes of income tax or corporation tax, as the case may be, in respect of the capital expenditure incurred in the qualifying period on the construction or refurbishment of the building or structure elects by notice in writing to the appropriate inspector (within the meaning of section 950) to disclaim all allowances under that Chapter in respect of that capital expenditure.

(*b*) An election under paragraph (*a*) shall be included in the return required to be made by the person concerned under section 951 for the first year of assessment or the first accounting period, as the case may be, for which an allowance would but for subsection (6) have been made to that person under Chapter 1 of Part 9 in respect of that capital expenditure.

(*c*) An election under paragraph (*a*) shall be irrevocable.

(*d*) A person who has made an election under paragraph (*a*) shall furnish a copy of that election to any person (in this paragraph referred to as 'the second-mentioned person') to whom the person grants a qualifying lease in

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respect of the qualifying premises, and the second-mentioned person shall include the copy in the return required to be made by the second-mentioned person under section 951 for the year of assessment or accounting period, as the case may be, in which rent is first payable by the second-mentioned person under the qualifying lease in respect of the qualifying premises.

(6) Where a person who has incurred capital expenditure in the qualifying period on the construction or refurbishment of a building or structure in use for the purposes specified in section 268(1)(*d*) makes an election under subsection (5)(*a*), then, notwithstanding any other provision of the Tax Acts—

(*a*) no allowance under Chapter 1 of Part 9 shall be made to the person in respect of that capital expenditure,

(*b*) on the occurrence, in relation to the building or structure, of any of the events referred to in section 274(1), the residue of expenditure (within the meaning of section 277) in relation to that capital expenditure shall be deemed to be nil, and

(*c*) section 279 shall not apply in the case of any person who buys the relevant interest (within the meaning of section 269) in the building or structure.

(7) For the purposes of determining, in relation to paragraph (*a*)(iii) of the definition of 'qualifying premises' and subsections (5) and (6), whether and to what extent capital expenditure incurred on the construction or refurbishment of a building or structure is incurred or not incurred in the qualifying period, only such an amount of that capital expenditure as is properly attributable to work on the construction or refurbishment of the building or structure actually carried out in 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.

(8) (*a*) In this subsection—

'current value', in relation to minimum lease payments, means

the value of those payments discounted to their present value at a rate which, when applied at the inception of the lease to—

(i) those payments, including any initial payment but excluding any payment or part of any payment for which the lessor will be accountable to the lessee, and

(ii) any unguaranteed residual value of the qualifying premises, excluding any part of such value for which the lessor will be accountable to the lessee,

produces discounted present values the aggregate amount of which equals the amount of the fair value of the qualifying premises;

'fair value', in relation to a qualifying premises, means an amount equal to such consideration as might be expected to be paid for the premises on a sale negotiated on an arm's length basis less any grants receivable towards the purchase of the qualifying premises;

'inception of the lease' means the earlier of the time the qualifying premises is brought into use or the date from which rentals under the lease first accrue;

'minimum lease payments' means the minimum payments over the remaining part of the term of the lease to be paid to the lessor, and includes any residual amount to be paid to the lessor at the end of the term of the lease and guaranteed by the lessee or by a person connected with the lessee;

'unguaranteed residual value', in relation to a qualifying premises, means that part of the residual value of that premises at the end of a term of a lease, as estimated at the inception of the lease, the realisation of which by the lessor is not assured or is guaranteed solely by a person connected with the lessor.

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(*b*) A finance lease, that is—

(i) a lease in respect of a qualifying premises where, at the inception of the lease, the aggregate of the current value of the minimum lease payments (including any initial payment but excluding any payment or part of any payment for which the lessor will be accountable to the lessee) payable by the lessee in relation to the lease amounts to 90 per cent or more of the fair value of the qualifying premises, or

(ii) a lease which in all the circumstances is considered to provide in substance for the lessee the risks and benefits associated with ownership of the qualifying premises other than legal title to that premises,

shall not be a qualifying lease for the purposes of this section.

Rented residential accommodation: deduction for certain expenditure on construction.

372F.—(1) In this section—

'qualifying lease', in relation to a house, means, subject to section 372J(2), a lease of the house the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium which does not exceed 10 per cent of the relevant cost of the house;

'qualifying premises' means, subject to subsections (3), (4)(*a*), (4)(*c*) and (5) of section 372J, a house—

(*a*) the site of which is wholly within a qualifying area,

(*b*) which is used solely as a dwelling,

(*c*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*d*) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost, the amount specified in which in respect of the cost of construction of the house is not less than the expenditure actually incurred on such construction, and

(*e*) which without having been used is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant cost', in relation to a house, means, subject to subsection (4), an amount equal to the aggregate of—

(*a*) the expenditure incurred on the acquisition of, or of rights in or over, any land on which the house is constructed, and

(*b*) the expenditure actually incurred on the construction of the house;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred expenditure on the construction of a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of that expenditure as is to be treated under section 372J(7) or under this section as having been incurred by such person in the qualifying period, and

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(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(3) (*a*) This subsection shall apply to any premium or other sum which is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the expenditure to be treated as having been incurred in the qualifying period on the construction of the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the expenditure actually incurred on the construction of the qualifying premises which is to be treated under section 372J(7) as having been incurred in the qualifying period bears to the whole of the expenditure incurred on that construction.

(4) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary—

(*a*) of the expenditure incurred on the construction of that building or those buildings, and

(*b*) of the amount which would be the relevant cost in relation to that building or those buildings if the building or buildings, as the case may be, were a single qualifying premises,

for the purposes of determining the expenditure incurred on the construction of the qualifying premises and the relevant cost in relation to the qualifying premises.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (2) in respect of expenditure incurred on the construction of the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(6) (*a*) Where the event mentioned in subsection (5)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of expenditure on the construction of the house equal to the amount which under section 372J(7) or under this section (apart from subsection (3)(*b*)) the lessor was treated as having incurred in the qualifying period on the construction of the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed the relevant price paid by such person on the purchase.

(*b*) For the purposes of this subsection and subsection (7), the relevant price paid by a person on

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the purchase of a house shall be the amount which bears to the net price paid by such person on that purchase the same proportion as the amount of the expenditure actually incurred on the construction of the house which is to be treated under section 372J(7) as having been incurred in the qualifying period bears to the relevant cost in relation to that house.

(7) (*a*) Subject to paragraph (*b*), where expenditure is incurred on the construction of a house and before the house is used it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period expenditure on the construction of the house equal to the lesser of—

(i) the amount of such expenditure which is to be treated under section 372J(7) as having been incurred in the qualifying period, and

(ii) the relevant price paid by such person on the purchase;

but, where the house is sold more than once before it is used, this subsection shall apply only in relation to the last of those sales.

(*b*) Where expenditure is incurred on the construction of a house by a person carrying on a trade or part of a trade which consists, as to the whole or any part of the trade, of the construction of buildings with a view to their sale and the house, before it is used, is sold in the course of that trade or, as the case may be, that part of that trade—

(i) the person (in this paragraph referred to as 'the purchaser') who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period expenditure on the construction of the house equal to the rel-

evant price paid by the purchaser on the purchase (in this paragraph referred to as 'the first purchase'), and

(ii) in relation to any subsequent sale or sales of the house before the house is used, paragraph (*a*) shall apply as if the reference to the amount of expenditure which is to be treated as having been incurred in the qualifying period were a reference to the relevant price paid on the first purchase.

(8) Section 372J shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on conversion.

372G.—(1) In this section—

'conversion expenditure' means, subject to subsection (2), expenditure incurred on—

(*a*) the conversion into a house of a building—

(i) the site of which is wholly within a qualifying area, and

(ii) which has not been previously in use as a dwelling,

and

(*b*) the conversion into 2 or more houses of a building—

(i) the site of which is wholly within a qualifying area, and

(ii) which before the conversion had not been in use as a dwelling or had been in use as a single dwelling,

and references in this section and in section 372J to 'conversion', 'conversion into a house' and 'expenditure incurred on conversion' shall be construed accordingly;

'qualifying lease', in relation to a house, means, subject to section 372J(2), a lease of the house the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

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(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium which does not exceed 10 per cent of the market value of the house at the time the conversion is completed and, in the case of a house which is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house at the time the conversion is completed shall for the purposes of this paragraph be taken to be an amount which bears to the market value of the building at that time the same proportion as the total floor area of the house bears to the total floor area of the building;

'qualifying premises' means, subject to subsections (3), (4)(*b*), (4)(*c*) and (5) of section 372J, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house is not less than the expenditure actually incurred on such conversion, and

(*d*) which without having been used subsequent to the incurring of the expenditure on the conversion is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) For the purposes of this section, expenditure incurred on the conversion of a building shall be deemed to include expenditure incurred in the course of the conversion on either or both of the following—

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or any out office appurtenant to or usually enjoyed with the building, but shall not be deemed to include—

(i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or

(ii) any expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the conversion is not a house.

(3) For the purposes of subsection (2)(ii), where expenditure is attributable to a building in general and not directly to any particular house or non-residential unit comprised in the building on completion of the conversion, such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building.

(4) Subject to subsection (5), where a person, having made a claim in that behalf, proves to have incurred conversion expenditure in relation to a house which is a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 372J(7) or under this section as having been incurred by such person in the qualifying period, and

(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(5) (*a*) This subsection shall apply to any premium or other sum which is payable, directly or indirectly,

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under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the conversion expenditure to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (4) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the conversion expenditure actually incurred in relation to the qualifying premises which is to be treated under section 372J(7) as having been incurred in the qualifying period bears to the whole of the conversion expenditure incurred in relation to the qualifying premises.

(6) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the expenditure incurred on the conversion of that building or those buildings for the purposes of determining the conversion expenditure incurred in relation to the qualifying premises.

(7) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (4) in respect of conversion expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(8) Where the event mentioned in subsection (7)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of conversion expenditure in relation to the house equal to the amount of the conversion expenditure which under section 372J(7) or under this section (apart from subsection (5)(*b*)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the purchase, or

(*b*) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 372J(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house.

(9) Where conversion expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period conversion expenditure in relation to the house equal to the lesser of—

(*a*) the amount of such expenditure which is to be treated under section 372J(7) as having been incurred in the qualifying period, and

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(*b*) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 372J(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house;

but, where the house is sold more than once before it is used subsequent to the incurring of the conversion expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

(10) This section shall not apply in the case of a conversion unless planning permission in respect of the conversion has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(11) Section 372J shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on refurbishment.

372H.—(1) In this section—

'qualifying lease', in relation to a house, means, subject to section 372J(2), a lease of the house the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium—

(i) which is payable on or subsequent to the date of the completion of the refurbishment to which the relevant expenditure relates or which, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment, and

(ii) which does not exceed 10 per cent of the market value of the house on the date of

completion of the refurbishment to which the relevant expenditure relates and, in the case of a house which is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house on that date shall for the purposes of this subparagraph be taken to be an amount which bears to the market value of the building on that date the same proportion as the total floor area of the house bears to the total floor area of the building;

'qualifying premises' means, subject to subsections (3), (4)(*b*), (4)(*c*) and (5) of section 372J, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of refurbishment in relation to the house is not less than the relevant expenditure actually incurred on such refurbishment, and

(*d*) which on the date of completion of the refurbishment to which the relevant expenditure relates is let (or, if not let on that date, is, without having been used after that date, first let) in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'refurbishment', in relation to a building, means either or both of the following—

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

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(*b*) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works or the provision of such facilities is certified by the Minister for the Environment and Local Government, in any certificate of reasonable cost granted by that Minister in relation to any house contained in the building, to have been necessary for the purposes of ensuring the suitability as a dwelling of any house in the building and whether or not the number of houses in the building, or the shape or size of any such house, is altered in the course of such refurbishment;

'relevant expenditure' means expenditure incurred on the refurbishment of a specified building, other than expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the refurbishment is not a house, and for the purposes of this definition where expenditure is attributable to the specified building in general (and not directly to any particular house or non-residential unit comprised in the building on completion of the refurbishment), such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the completion of the refurbishment to which the relevant expenditure relates or, if the premises was not let under a qualifying lease on that date, the period of 10 years beginning on the date of the first such letting after the date of such completion;

'specified building' means a building—

(*a*) the site of which is wholly within a qualifying area,

(*b*) in which before the refurbishment to which the relevant expenditure relates there are 2 or more houses, and

(*c*) which on completion of that refurbishment contains (whether in addition to any non-residential unit or not) 2 or more houses.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred relevant expenditure in relation to a house which is a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 372J(7) or under this section as having been incurred by such person in the qualifying period, and

(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(3) (*a*) This subsection shall apply to any premium or other sum which—

(i) is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, and

(ii) is payable on or subsequent to the date of completion of the refurbishment to which the relevant expenditure relates or, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the relevant expenditure to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the

case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the relevant expenditure actually incurred in relation to the qualifying premises which is to be treated under section 372J(7) as having been incurred in the qualifying period bears to the whole of the relevant expenditure incurred in relation to the qualifying premises.

(4) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the relevant expenditure incurred on that building or those buildings for the purposes of determining the relevant expenditure incurred in relation to the qualifying premises.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (2) in respect of relevant expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(6) Where the event mentioned in subsection (5)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of relevant expenditure in

relation to the house equal to the amount of the relevant expenditure which under section 372J(7) or under this section (apart from subsection (3)(*b*)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the purchase, or

(*b*) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 372J(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house.

(7) Where relevant expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period relevant expenditure in relation to the house equal to the lesser of—

(*a*) the amount of such expenditure which is to be treated under section 372J(7) as having been incurred in the qualifying period, and

(*b*) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 372J(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house;

but, where the house is sold more than once before it is used subsequent to the incurring of the relevant expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

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(8) This section shall not apply in the case of any refurbishment unless planning permission, in so far as it is required, in respect of the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(9) Expenditure in respect of which a person is entitled to relief under this section shall not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts.

(10) Section 372J shall apply for the purposes of supplementing this section.

Residential accommodation: allowance to owner-occupiers in respect of certain expenditure on construction or refurbishment.

372I.—(1) In this section—

'qualifying expenditure', in relation to an individual, means an amount equal to the amount of the expenditure incurred by the individual on the construction or, as the case may be, refurbishment of a qualifying premises which is a qualifying owner-occupied dwelling in relation to the individual after deducting from that amount of expenditure any sum in respect of or by reference to—

(*a*) that expenditure,

(*b*) the qualifying premises, or

(*c*) the construction or, as the case may be, refurbishment work in respect of which that expenditure was incurred,

which the individual has received or is entitled to receive, directly or indirectly, from the State, any board established by statute or any public or local authority;

'qualifying owner-occupied dwelling', in relation to an individual, means a qualifying premises which is first used, after the qualifying expenditure has been incurred, by the individual as his or her only or main residence;

'qualifying premises', in relation to the incurring of qualifying expenditure, means, subject to subsections (4) and (5) of section 372J, a house—

(*a*) the site of which is wholly within a qualifying area,

(*b*) which is used solely as a dwelling,

(*c*) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing

(Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of construction or, as the case may be, refurbishment of the house is not less than the expenditure actually incurred on such construction or refurbishment, as the case may be, and Pt.1 S.76

(*d*) the total floor area of which is not less than 38 square metres and not more than 125 square metres;

'refurbishment' has the same meaning as in section 372H.

(2) (*a*) Where an individual, having made a claim in that behalf, proves to have incurred qualifying expenditure in a year of assessment, the individual shall be entitled, for that year of assessment and for any of the 9 subsequent years of assessment in which the qualifying premises in respect of which the individual incurred the qualifying expenditure is the only or main residence of the individual, to have a deduction made from his or her total income of an amount equal to—

(i) in the case where the qualifying expenditure has been incurred on the construction of the qualifying premises, 5 per cent of the amount of that expenditure, or

(ii) in the case where the qualifying expenditure has been incurred on the refurbishment of the qualifying premises, 10 per cent of the amount of that expenditure.

(*b*) A deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure is to be treated under section 372J(7) as having been incurred in the qualifying period.

(3) Where qualifying expenditure in relation to a qualifying premises is incurred by 2 or more persons, each of those persons shall be treated as having incurred the expenditure in

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the proportions in which they actually bore the expenditure, and the expenditure shall be apportioned accordingly.

(4) Section 372J shall apply for the purposes of supplementing this section.

Provisions supplementary to sections 372F to 372I.

372J.—(1) In sections 372F to 372I—

'certificate of reasonable cost' means a certificate granted by the Minister for the Environment and Local Government for the purposes of section 372F, 372G, 372H or 372I, as the case may be, stating that the amount specified in the certificate in relation to the cost of construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the house to which the certificate relates appears to that Minister at the time of the granting of the certificate and on the basis of the information available to that Minister at that time to be reasonable, and section 18 of the Housing (Miscellaneous Provisions) Act, 1979, shall, with any necessary modifications, apply to a certificate of reasonable cost as if it were a certificate of reasonable value within the meaning of that section;

'house' includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building;

'total floor area' means the total floor area of a house measured in the manner referred to in section 4(2)(*b*) of the Housing (Miscellaneous Provisions) Act, 1979.

(2) A lease shall not be a qualifying lease for the purposes of section 372F, 372G or 372H if the terms of the lease contain any provision enabling the lessee or any other person, directly or indirectly, at any time to acquire any interest in the house to which the lease relates for a consideration less than that which might be expected to be given at that time for the acquisition of the interest if the negotiations for that acquisition were conducted in the open market at arm's length.

(3) A house shall not be a qualifying premises for the purposes of section 372F, 372G or 372H if—

(*a*) it is occupied as a dwelling by any person connected with the person entitled, in relation to the expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of,

the house, to a deduction under section 372F(2), 372G(4) or 372H(2), as the case may be, and

(*b*) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(4) (*a*) A house shall not be a qualifying premises for the purposes of section 372F or, in so far as it applies to expenditure other than expenditure on refurbishment, section 372I unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards of construction of houses and the provision of water, sewerage and other services in houses.

(*b*) A house shall not be a qualifying premises for the purposes of section 372G or 372H or, in so far as it applies to expenditure on refurbishment, section 372I unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvements of houses and the provision of water, sewerage and other services in houses.

(*c*) A house shall not be a qualifying premises for the purposes of section 372F, 372G, 372H or 372I unless the house or, in a case where the house is one of a number of houses in a single development, the development of which it is a part complies with such guidelines as may from time to time be issued by the Minister for the Environment and Local Government, with the consent of the Minister for Finance, for the purposes of furthering the objectives of urban renewal without prejudice to the generality of the foregoing, such guidelines may

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include provisions in relation to all or any one or more of the following—

(i) the design and the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, houses,

(ii) the total floor area and dimensions of rooms within houses, measured in such manner as may be determined by the Minister for the Environment and Local Government,

(iii) the provision of ancillary facilities and amenities in relation to houses, and

(iv) the balance to be achieved between houses of different types and sizes within a single development of 2 or more houses or within such a development and its general vicinity having regard to the housing existing or proposed in that vicinity.

(5) A house shall not be a qualifying premises for the purposes of section 372F, 372G, 372H or 372I unless persons authorised in writing by the Minister for the Environment and Local Government for the purposes of those sections are permitted to inspect the house at all reasonable times on production, if so requested by a person affected, of their authorisations.

(6) For the purposes of sections 372F to 372I, references in those sections to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, any premises shall be construed as including references to the development of the land on which the premises is situated or which is used in the provision of gardens, grounds, access or amenities in relation to the premises and, without prejudice to the generality of the foregoing, as including in particular—

(*a*) demolition or dismantling of any building on the land,

(*b*) site clearance, earth moving, excavation, tunnelling and boring, laying of foundations, erection of

scaffolding, site restoration, landscaping and the provision of roadways and other access works,

(*c*) walls, power supply, drainage, sanitation and water supply, and

(*d*) the construction of any outhouses or other buildings or structures for use by the occupants of the premises or for use in the provision of amenities for the occupants.

(7) (*a*) For the purposes of determining, in relation to any claim under section 372F(2), 372G(4), 372H(2) or 372I(2), as the case may be, whether and to what extent expenditure incurred on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the premises actually carried out during the qualifying period shall be treated as having been incurred during that period.

(*b*) Where by virtue of subsection (6) expenditure on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises includes expenditure on the development of any land, paragraph (*a*) shall apply with any necessary modifications as if the references in that paragraph to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the qualifying premises were references to the development of such land.

(8) (*a*) For the purposes of sections 372F and 372G other than the purposes mentioned in subsection (7)(*a*), expenditure incurred on the construction of, or, as the case may be, conversion into, a qualifying premises shall be deemed to have been incurred on

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the date of the first letting of the premises under a qualifying lease.

(*b*) For the purposes of section 372H other than the purposes mentioned in subsection (7)(*a*), relevant expenditure incurred in relation to the refurbishment of a qualifying premises shall be deemed to have been incurred on the date of the commencement of the relevant period, in relation to the premises, determined as respects the refurbishment to which the relevant expenditure relates.

(*c*) For the purposes of section 372I other than the purposes mentioned in subsection (7)(*a*), expenditure incurred on the construction or refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred on which the premises is in use as a dwelling.

(9) For the purposes of sections 372F to 372H, expenditure shall not be regarded as incurred by a person in so far as it has been or is to be met, directly or indirectly, by the State, by any board established by statute or by any public or local authority.

(10) Section 555 shall apply as if a deduction under section 372F(2), 372G(4) or 372H(2), as the case may be, were a capital allowance and as if any rent deemed to have been received by a person under section 372F(5), 372G(7) or 372H(5), as the case may be, were a balancing charge.

(11) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 372F, 372G, 372H or 372I (other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979) in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.

Provision against double relief.

372K.—Where relief is given by virtue of any provision of this Chapter in relation to capital expenditure or other expenditure incurred on, or rent payable in respect of, any building, structure or premises, relief shall not be given in respect of that expenditure or that rent under any other provision of the Tax Acts.''.

77.—The Principal Act is hereby amended— Pt.1

Reliefs for renewal and improvement of certain rural areas.

(*a*) in Part 10, by the insertion after Chapter 7 (inserted by this Act) of the following:

''Chapter 8

Qualifying rural areas

Interpretation (Chapter 8).

372L.—In this Chapter—

'lease', 'lessee', 'lessor', 'premium' and 'rent' have the same meanings respectively as in Chapter 8 of Part 4;

'market value', in relation to a building, structure or house, means the price which the unencumbered fee simple of the building, structure or house 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, structure or house, 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, structure or house is constructed;

'qualifying period' means the period commencing on such day as the Minister for Finance may by order appoint and ending on the 31st day of December, 2001;

'qualifying rural area' means any area described in Schedule 8A;

'refurbishment', in relation to a building or structure and other than for the purposes of section 372R, 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 the repair or restoration, or maintenance in the nature of repair or restoration, of the building or structure.

Accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures.

372M.—(1) This section shall apply to a building or structure the site of which is wholly within a qualifying rural area and which is to be an industrial building or structure by reason of its use for a purpose specified in section 268(1)(*a*).

(2) Subject to subsection (4), section 271 shall apply 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 subsection (1) of that section the definition of 'industrial development agency' were deleted,

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(*b*) in subsection (2)(*a*)(i) of that section 'to which subsection (3) applies' were deleted,

(*c*) subsection (3) of that section were deleted,

(*d*) the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be of an amount equal to 25 per cent of the capital expenditure mentioned in subsection (2).',

and

(*e*) in subsection (5) of that section 'to which subsection (3)(*c*) applies' were deleted.

(3) Subject to subsection (4), section 273 shall apply 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 subsection (1) of that section the definition of 'industrial development agency' were deleted,

(*b*) the following paragraph were substituted for paragraph (i) of subsection (2) of that section:

'(*b*) As respects any qualifying expenditure, any allowance made under section 272 and increased under paragraph (*a*) in respect of that expenditure, whether claimed for one chargeable period or more than one such period, shall not in the aggregate exceed 50 per cent of the amount of that qualifying expenditure.',

and

(*c*) subsections (3) to (7) of that section were deleted.

(4) 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, subsections (2) and (3) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 10 per cent of

the market value of the building or structure immediately before that expenditure was incurred.

(5) Notwithstanding section 274(1), no balancing charge shall be made in relation to a building or structure to which this section applies by reason of any of the events specified in that section which occurs—

(*a*) more than 13 years after the building or structure was first used, or

(*b*) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the building or structure was incurred.

(6) For the purposes only of determining, in relation to a claim for an allowance under section 271 or 273 as applied by this section, whether and to what extent capital expenditure incurred on the construction or refurbishment of an industrial building or structure is incurred or not incurred in the qualifying period, only such an amount of that capital expenditure as is properly attributable to work on the construction or, as the case may be, the 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 construction or refurbishment of certain commercial buildings or structures.

372N.—(1) In this section—

'approved scheme' means a scheme undertaken with the approval of a local authority which has as its object, or amongst its objects, the provision of sewerage facilities, water supplies or roads for public purposes;

'qualifying premises' means a building or structure the site of which is wholly within a qualifying rural area, and which—

(*a*) apart from this section is not an industrial building or structure within the meaning of section 268, and

(*b*) (i) is in use for the purposes of a trade or profession or for the purposes of an approved scheme, or

(ii) whether or not it is so used, is let on bona fide commercial terms for such consideration

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as might be expected to be paid in a letting of the building or structure negotiated on an arm's length basis,

but does not include any part of a building or structure in use as or as part of a dwelling house.

(2)(*a*) Subject to paragraph (*b*) and subsections (3) to (6), the provisions of the Tax Acts (other than section 372M) relating to the making of allowances or 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 a 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 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 10 per cent of the market value of the qualifying premises immediately before that expenditure was incurred.

(4) For the purposes of the application, by subsection (2), of sections 271 and 273 in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises—

(*a*) section 271 shall apply as if—

(i) in subsection (1) of that section the definition of 'industrial development agency' were deleted,

(ii) in subsection (2)(*a*)(i) of that section 'to which subsection (3) applies' were deleted,

(iii) subsection (3) of that section were deleted,

(iv) the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be of an amount equal to 50 per cent of the capital expenditure mentioned in subsection (2).',

and

(v) in subsection (5) of that section 'to which subsection (3)(*c*) applies' were deleted,

and

(*b*) section 273 shall apply as if—

(i) in subsection (1) of that section the definition of 'industrial development agency' were deleted, and

(ii) subsections (2)(*b*) and (3) to (7) of that section were deleted.

(5) Notwithstanding section 274(1), no balancing charge shall be made in relation to a qualifying premises by reason of any of the events specified in that section which occurs—

(*a*) more than 13 years after the qualifying premises was first used, or

(*b*) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the qualifying premises was incurred.

(6)(*a*) Notwithstanding subsections (2) to (4), any allowance or charge which apart from this subsection

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would be made by virtue of subsection (2) in respect of capital expenditure incurred on the construction or refurbishment of a qualifying premises shall be reduced to one-half of the amount which apart from this subsection would be the amount of that allowance or charge.

(*b*) For the purposes of paragraph (*a*), the amount of an allowance or charge to be reduced to one-half shall be computed as if—

(i) this subsection had not been enacted, and

(ii) effect had been given to all allowances taken into account in so computing that amount.

(*c*) Nothing in this subsection shall affect the operation of section 274(8).

(7) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (2), 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, only such an amount of that capital expenditure as is properly attributable to work on the construction or 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.

Double rent allowance in respect of rent paid for certain business premises.

372O.—(1) In this section—

'qualifying lease' means, subject to subsection (5), a lease in respect of a qualifying premises granted in the qualifying period on bona fide commercial terms by a lessor to a lessee not connected with the lessor, or with any other person entitled to a rent in respect of the qualifying premises, whether under that lease or any other lease;

'qualifying premises' means a building or structure—

(*a*) (i) the site of which is wholly within a qualifying rural area and which is a building or structure in use for a purpose specified in section

268(1)(*a*), and in respect of which capital expenditure is incurred in the qualifying period for which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax or corporation tax, as the case may be, under section 271 or 273, as applied by section 372M, or

(ii) the site of which is wholly within a qualifying area and in respect of which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by virtue of section 372N,

and

(*b*) which is let on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure negotiated on an arm's length basis,

but, where capital expenditure is incurred in the qualifying period on the refurbishment of a building or structure in respect of which an allowance is to be made, or will by virtue of section 279 be made, for the purposes of income tax or corporation tax, as the case may be, under any of the provisions referred to in paragraph (*a*), the building or structure shall not be regarded as a qualifying premises unless the total amount of the expenditure so incurred is not less than an amount equal to 10 per cent of the market value of the building or structure immediately before that expenditure is incurred.

(2) For the purposes of this section, so much of a period, being a period when rent is payable by a person in relation to a qualifying premises under a qualifying lease, shall be a relevant rental period as does not exceed—

(*a*) 10 years, or

(*b*) the period by which 10 years exceeds—

(i) any preceding period, or

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(ii) if there is more than one preceding period, the aggregate of those periods,

for which rent was payable by that person or any other person in relation to that premises under a qualifying lease.

(3) Subject to subsection (4), where in the computation of the amount of the profits or gains of a trade or profession a person is apart from this section entitled to any deduction (in this subsection referred to as 'the first-mentioned deduction') on account of rent in respect of a qualifying premises occupied by such person for the purposes of that trade or profession which is payable by such person for a relevant rental period in relation to that qualifying premises under a qualifying lease, such person shall be entitled in that computation to a further deduction (in this subsection referred to as 'the second-mentioned deduction') equal to the amount of the first-mentioned deduction but where the first-mentioned deduction is on account of rent payable by such person to a connected person, such person shall not be entitled in that computation to the second-mentioned deduction.

(4) Where a person holds an interest in a qualifying premises out of which interest a qualifying lease is created directly or indirectly in respect of the qualifying premises and in respect of rent payable under the qualifying lease a claim for a further deduction under this section is made, and either such person or another person connected with such person—

(*a*) takes under a qualifying lease a qualifying premises (in this subsection referred to as 'the second-mentioned premises') occupied by such person or such other person, as the case may be, for the purposes of a trade or profession, and

(*b*) is apart from this section entitled, in the computation of the amount of the profits or gains of that trade or profession, to a deduction on account of rent in respect of the second-mentioned premises,

then, unless such person or such other person, as the case may be, shows that the taking on lease of the second-mentioned premises was not undertaken for the sole or main benefit of obtaining a further deduction on account of rent under this section, such person or such other person, as the case may be,

shall not be entitled in the computation of the amount of the profits or gains of that trade or profession to any further deduction on account of rent in respect of the second-mentioned premises.

(5)(*a*) In this subsection—

'current value', in relation to minimum lease payments, means the value of those payments discounted to their present value at a rate which, when applied at the inception of the lease to—

(i) those payments, including any initial payment but excluding any payment or part of any payment for which the lessor will be accountable to the lessee, and

(ii) any unguaranteed residual value of the qualifying premises, excluding any part of such value for which the lessor will be accountable to the lessee,

produces discounted present values the aggregate amount of which equals the amount of the fair value of the qualifying premises;

'fair value', in relation to a qualifying premises, means an amount equal to such consideration as might be expected to be paid for the premises on a sale negotiated on an arm's length basis less any grants receivable towards the purchase of the qualifying premises;

'inception of the lease' means the earlier of the time the qualifying premises is brought into use or the date from which rentals under the lease first accrue;

'minimum lease payments' means the minimum payments over the remaining part of the term of the lease to be paid to the lessor, and includes any residual amount to be paid to the lessor at the end of the term of the lease and guaranteed by the lessee or by a person connected with the lessee;

'unguaranteed residual value', in relation to a qualifying premises,

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means that part of the residual value of that premises at the end of a term of a lease, as estimated at the inception of the lease, the realisation of which by the lessor is not assured or is guaranteed solely by a person connected with the lessor.

(*b*) A finance lease, that is—

(i) a lease in respect of a qualifying premises where, at the inception of the lease, the aggregate of the current value of the minimum lease payments (including any initial payment but excluding any payment or part of any payment for which the lessor will be accountable to the lessee) payable by the lessee in relation to the lease amounts to 90 per cent or more of the fair value of the qualifying premises, or

(ii) a lease which in all the circumstances is considered to provide in substance for the lessee the risks and benefits associated with ownership of the qualifying premises other than legal title to that premises,

shall not be a qualifying lease for the purposes of this section.

Rented residential accommodation: deduction for certain expenditure on construction.

372P.—(1) In this section—

'qualifying lease', in relation to a house, means, subject to section 372S(2), a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium which does not exceed 10 per cent of the relevant cost of the house;

'qualifying premises' means, subject to subsections (3), (4)(*a*) and (5) of section 372S, a house—

(*a*) the site of which is wholly within a qualifying rural area,

(*b*) which is used solely as a dwelling,

(*c*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*d*) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost, the amount specified in which in respect of the cost of construction of the house is not less than the expenditure actually incurred on such construction, and

(*e*) which without having been used is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant cost', in relation to a house, means, subject to subsection (4), an amount equal to the aggregate of—

(*a*) the expenditure incurred on the acquisition of, or of rights in or over, any land on which the house is constructed, and

(*b*) the expenditure actually incurred on the construction of the house;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred expenditure on the construction of a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of that expenditure

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as is to be treated under section 372S(7) or under this section as having been incurred by such person in the qualifying period, and

(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(3)(*a*) This subsection shall apply to any premium or other sum which is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the expenditure to be treated as having been incurred in the qualifying period on the construction of the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the expenditure actually incurred on the construction of the qualifying premises which is to be treated under section 372S(7) as having been incurred in the qualifying period bears to the whole of the expenditure incurred on that construction.

(4) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary—

(*a*) of the expenditure incurred on the construction of that building or those buildings, and

(*b*) of the amount which would be the relevant cost in relation to that building or those buildings if the building or buildings, as the case may be, were a single qualifying premises,

for the purposes of determining the expenditure incurred on the construction of the qualifying premises and the relevant cost in relation to the qualifying premises.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (2) in respect of expenditure incurred on the construction of the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(6)(*a*) Where the event mentioned in subsection (5)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of expenditure on the construction of the house equal to the amount which under section 372S(7) or under this section (apart from subsection (3)(*b*)) the lessor was treated as having incurred in the qualifying period on the construction of the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed

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the relevant price paid by such person on the purchase.

(*b*) For the purposes of this subsection and subsection (7), the relevant price paid by a person on the purchase of a house shall be the amount which bears to the net price paid by such person on that purchase the same proportion as the amount of the expenditure actually incurred on the construction of the house which is to be treated under section 372S(7) as having been incurred in the qualifying period bears to the relevant cost in relation to that house.

(7)(*a*) Subject to paragraph (*b*), where expenditure is incurred on the construction of a house and before the house is used it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period expenditure on the construction of the house equal to the lesser of—

(i) the amount of such expenditure which is to be treated under section 372S(7) as having been incurred in the qualifying period, and

(ii) the relevant price paid by such person on the purchase,

but, where the house is sold more than once before it is used, this subsection shall apply only in relation to the last of those sales.

(*b*) Where expenditure is incurred on the construction of a house by a person carrying on a trade or part of a trade which consists, as to the whole or any part of the trade, of the construction of buildings with a view to their sale and the house, before it is used, is sold in the course of that trade or, as the case may be, that part of that trade—

(i) the person (in this paragraph referred to as 'the purchaser') who purchases the house shall be treated for the purposes of this section as having incurred in the

qualifying period expenditure on the construction of the house equal to the relevant price paid by the purchaser on the purchase (in this paragraph referred to as 'the first purchase'), and

(ii) in relation to any subsequent sale or sales of the house before the house is used, paragraph (*a*) shall apply as if the reference to the amount of expenditure which is to be treated as having been incurred in the qualifying period were a reference to the relevant price paid on the first purchase.

(8) Section 372S shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on conversion.

372Q.—(1) In this section—

'conversion expenditure' means, subject to subsection (2), expenditure incurred on—

(*a*) the conversion into a house of a building—

(i) the site of which is wholly within a qualifying rural area, and

(ii) which has not been previously in use as a dwelling,

and

(*b*) the conversion into 2 or more houses of a building—

(i) the site of which is wholly within a qualifying rural area, and

(ii) which before the conversion had not been in use as a dwelling or had been in use as a single dwelling,

and references in this section and in section 372S to 'conversion', 'conversion into a house' and 'expenditure incurred on conversion' shall be construed accordingly;

'qualifying lease', in relation to a house, means, subject to section 372S(2), a lease of the house the duration of which is not less than 12 months and consideration for the grant of which consists—

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(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium which does not exceed 10 per cent of the market value of the house at the time the conversion is completed and, in the case of a house which is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house at the time the conversion is completed shall for the purposes of this paragraph be taken to be an amount which bears to the market value of the building at that time the same proportion as the total floor area of the house bears to the total floor area of the building;

'qualifying premises' means, subject to subsections (3), (4)(*b*) and (5) of section 372S, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house is not less than the expenditure actually incurred on such conversion, and

(*d*) which without having been used subsequent to the incurring of the expenditure on the conversion is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) For the purposes of this section, expenditure incurred on the conversion of a building shall be deemed to include expenditure incurred in the course of the conversion on either or both of the following—

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or any outoffice appurtenant to or usually enjoyed with the building, but shall not be deemed to include—

(i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or

(ii) any expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the conversion is not a house.

(3) For the purposes of subsection (2)(ii), where expenditure is attributable to a building in general and not directly to any particular house or non-residential unit comprised in the building on completion of the conversion, such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building.

(4) Subject to subsection (5), where a person, having made a claim in that behalf, proves to have incurred conversion expenditure in relation to a house which is a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 372S(7) or under this section as having been incurred by such person in the qualifying period, and

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(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(5)(*a*) This subsection shall apply to any premium or other sum which is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the conversion expenditure to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (4) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the conversion expenditure actually incurred in relation to the qualifying premises which is to be treated under section 372S(7) as having been incurred in the qualifying period bears to the whole of the conversion expenditure incurred in relation to the qualifying premises.

(6) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the expenditure incurred on the conversion of that building or those buildings for the purposes of determining the conversion expenditure incurred in relation to the qualifying premises.

(7) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (4) in respect of conversion expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(8) Where the event mentioned in subsection (7)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of conversion expenditure in relation to the house equal to the amount of the conversion expenditure which under section 372S(7) or under this section (apart from subsection (5)(*b*)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the purchase, or

(*b*) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 372S(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house.

(9) Where conversion expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in

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the qualifying period conversion expenditure in relation to the house equal to the lesser of—

(*a*) the amount of such expenditure which is to be treated under section 372S(7) as having been incurred in the qualifying period, and

(*b*) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 372S(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house;

but, where the house is sold more than once before it is used subsequent to the incurring of the conversion expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

(10) This section shall not apply in the case of a conversion unless planning permission in respect of the conversion has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(11) Section 372S shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on refurbishment.

372R.—(1) In this section—

'qualifying lease', in relation to a house, means, subject to section 372S(2), a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium—

(i) which is payable on or subsequent to the date of the

completion of the refurbishment to which the relevant expenditure relates or which, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment, and

(ii) which does not exceed 10 per cent of the market value of the house on the date of completion of the refurbishment to which the relevant expenditure relates and, in the case of a house which is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house on that date shall for the purposes of this subparagraph be taken to be an amount which bears to the market value of the building on that date the same proportion as the total floor area of the house bears to the total floor area of the building;

'qualifying premises' means, subject to subsections (3), (4)(*b*) and (5) of section 372S, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which is not less than 38 square metres and not more than 125 square metres,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of refurbishment in relation to the house is not less than the relevant expenditure actually incurred on such refurbishment, and

(*d*) which on the date of completion of the refurbishment to which the relevant expenditure relates is let (or, if not let on that date, is, without having been used after that date, first let) in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of

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another such lease) continues to be let under such a lease;

'refurbishment', in relation to a building, means either or both of the following—

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works or the provision of such facilities is certified by the Minister for the Environment and Local Government, in any certificate of reasonable cost granted by that Minister in relation to any house contained in the building, to have been necessary for the purposes of ensuring the suitability as a dwelling of any house in the building and whether or not the number of houses in the building, or the shape or size of any such house, is altered in the course of such refurbishment;

'relevant expenditure' means expenditure incurred on the refurbishment of a specified building, other than expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the refurbishment is not a house, and for the purposes of this definition where expenditure is attributable to the specified building in general (and not directly to any particular house or non-residential unit comprised in the building on completion of the refurbishment), such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the completion of the refurbishment to which the relevant expenditure relates or, if the premises was not let under a qualifying lease on that date, the period of 10 years beginning on the date of the first such letting after the date of such completion;

'specified building' means a building—

(*a*) the site of which is wholly within a qualifying rural area,

(*b*) in which before the refurbishment to which the relevant expenditure

relates there is one or more than one house, and

(*c*) which on completion of that refurbishment contains (whether in addition to any non-residential unit or not) one or more than one house.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred relevant expenditure in relation to a house which is a qualifying premises—

(*a*) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 372S(7) or under this section as having been incurred by such person in the qualifying period, and

(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(3)(*a*) This subsection shall apply to any premium or other sum which—

(i) is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, and

(ii) is payable on or subsequent to the date of completion of the refurbishment to which the relevant expenditure relates or, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the relevant expenditure to be treated as having been incurred in the qualifying

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period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the relevant expenditure actually incurred in relation to the qualifying premises which is to be treated under section 372S(7) as having been incurred in the qualifying period bears to the whole of the relevant expenditure incurred in relation to the qualifying premises.

(4) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the relevant expenditure incurred on that building or those buildings for the purposes of determining the relevant expenditure incurred in relation to the qualifying premises.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(*a*) the house ceases to be a qualifying premises, or

(*b*) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (2) in respect of relevant expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(6) Where the event mentioned in subsection (5)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of relevant expenditure in relation to the house equal to the amount of the relevant expenditure which under section 372S(7) or under this section (apart from subsection (3)(*b*)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the purchase, or

(*b*) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 372S(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house.

(7) Where relevant expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period relevant expenditure in relation to the house equal to the lesser of—

(*a*) the amount of such expenditure which is to be treated under section 372S(7) as having been incurred in the qualifying period, and

(*b*) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 372S(7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house;

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but, where the house is sold more than once before it is used subsequent to the incurring of the relevant expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

(8) This section shall not apply in the case of any refurbishment unless planning permission, in so far as it is required, in respect of the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(9) Expenditure in respect of which a person is entitled to relief under this section shall not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts.

(10) Section 372S shall apply for the purposes of supplementing this section.

Provisions supplementary to sections 372P to 372R.

372S.—(1) In sections 372P to 372R—

'certificate of reasonable cost' means a certificate granted by the Minister for the Environment and Local Government for the purposes of section 372P, 372Q or 372R, as the case may be, stating that the amount specified in the certificate in relation to the cost of construction of, conversion into, or refurbishment of, the house to which the certificate relates appears to that Minister at the time of the granting of the certificate and on the basis of the information available to that Minister at that time to be reasonable, and section 18 of the Housing (Miscellaneous Provisions) Act, 1979, shall, with any necessary modifications, apply to a certificate of reasonable cost as if it were a certificate of reasonable value within the meaning of that section;

'house' includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building;

'total floor area' means the total floor area of a house measured in the manner referred to in section 4(2)(*b*) of the Housing (Miscellaneous Provisions) Act, 1979.

(2) A lease shall not be a qualifying lease for the purposes of section 372P, 372Q or 372R if the terms of the lease contain any provision enabling the lessee or any other person, directly or indirectly, at any time to acquire any interest in the house to which the lease relates for a consideration less than

that which might be expected to be given at that time for the acquisition of the interest if the negotiations for that acquisition were conducted in the open market at arm's length.

(3) A house shall not be a qualifying premises for the purposes of section 372P, 372Q or 372R if—

(*a*) it is occupied as a dwelling by any person connected with the person entitled, in relation to the expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of, the house, to a deduction under section 372P(2), 372Q(4) or 372R(2), as the case may be, and

(*b*) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(4)(*a*) A house shall not be a qualifying premises for the purposes of section 372P unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards of construction of houses and the provision of water, sewerage and other services in houses.

(*b*) A house shall not be a qualifying premises for the purposes of section 372Q or 372R unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvements of houses and the provision of water, sewerage and other services in houses.

(5) A house shall not be a qualifying premises for the purposes of section 372P, 372Q or 372R unless—

(*a*) persons authorised in writing by the Minister for the Environment

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and Local Government for the purposes of those sections are permitted to inspect the house at all reasonable times on production, if so requested by a person affected, of their authorisations, and

(*b*) throughout the period of any qualifying lease related to that premises, the house is used as the sole or main residence of the lessee in relation to that qualifying lease.

(6) For the purposes of sections 372P to 372R, references in those sections to the construction of, conversion into, or refurbishment of, any premises shall be construed as including references to the development of the land on which the premises is situated or which is used in the provision of gardens, grounds, access or amenities in relation to the premises and, without prejudice to the generality of the foregoing, as including in particular—

(*a*) demolition or dismantling of any building on the land,

(*b*) site clearance, earth moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works,

(*c*) walls, power supply, drainage, sanitation and water supply, and

(*d*) the construction of any outhouses or other buildings or structures for use by the occupants of the premises or for use in the provision of amenities for the occupants.

(7) (*a*) For the purposes of determining, in relation to any claim under section 372P(2), 372Q(4) or 372R(2), as the case may be, whether and to what extent expenditure incurred on the construction of, conversion into, or refurbishment of, a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, or refurbishment of, the premises actually carried out during the qualifying period shall be treated

as having been incurred during that period.

(*b*) Where by virtue of subsection (6) expenditure on the construction of, conversion into, or refurbishment of, a qualifying premises includes expenditure on the development of any land, paragraph (*a*) shall apply with any necessary modifications as if the references in that paragraph to the construction of, conversion into, or refurbishment of, the qualifying premises were references to the development of such land.

(8) (*a*) For the purposes of sections 372P and 372Q other than the purposes mentioned in subsection (7)(*a*), expenditure incurred on the construction of, or, as the case may be, conversion into, a qualifying premises shall be deemed to have been incurred on the date of the first letting of the premises under a qualifying lease.

(*b*) For the purposes of section 372R other than the purposes mentioned in subsection (7)(*a*), relevant expenditure incurred in relation to the refurbishment of a qualifying premises shall be deemed to have been incurred on the date of the commencement of the relevant period, in relation to the premises, determined as respects the refurbishment to which the relevant expenditure relates.

(9) For the purposes of sections 372P to 372R, expenditure shall not be regarded as incurred by a person in so far as it has been or is to be met, directly or indirectly, by the State, by any board established by statute or by any public or local authority.

(10) Section 555 shall apply as if a deduction under section 372P(2), 372Q(4) or 372R(2), as the case may be, were a capital allowance and as if any rent deemed to have been received by a person under section 372P(5), 372Q(7) or 372R(5), as the case may be, were a balancing charge.

(11) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 372P, 372Q or 372R (other than a question on which an appeal lies under section 18 of the

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Housing (Miscellaneous Provisions) Act, 1979) in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.

Non-application of relief in certain cases and provision against double relief.

372T.— (1) Notwithstanding the preceding provisions of this Chapter, sections 372M, 372N and 372O shall not apply in relation to any building or structure in use for the purposes of a trade, or any activity treated as a trade, where the number of individuals employed or engaged in the carrying on of the trade or activity amounts to or exceeds 250.

(2) Where relief is given by virtue of any provision of this Chapter in relation to capital expenditure or other expenditure incurred on, or rent payable in respect of, any building, structure or premises, relief shall not be given in respect of that expenditure or that rent under any other provision of the Tax Acts.'',

and

(*b*) by the insertion after Schedule 8 of the following:

"Section 327L.

SCHEDULE 8A

Description of Qualifying Rural Areas

PART 1

Description of qualifying rural areas of Cavan

The District Electoral Divisions of Arvagh, Springfield, Killashandra, Milltown, Carrafin, Grilly, Kilconny, Belturbet Urban, Ardue, Carn, Bilberry, Diamond, Doogary, Lissanover, Ballymagauran, Ballyconnell, Bawnboy, Templeport, Benbrack, Pedara Vohers, Tircahan, Swanlinbar, Kinawley, Derrynananta, Dunmakeever, Dowra, Derrylahan, Tuam, Killinagh, Eskey, Teebane, Scrabby, Loughdawan, Bruce Hall, Drumcarban, Corr, Crossdoney and Killykeen.

PART 2

Description of qualifying rural areas of Leitrim

The administrative county of Leitrim.

Description of qualifying rural areas of Longford

The administrative county of Longford.

PART 4

Description of qualifying rural areas of Roscommon

The District Electoral Divisions of Ballintober, Castleteheen, Carrowduff, Kilbride North, Lissonuffy, Killavackan, Termonbarry, Roosky, Kilglass North, Kilglass South, Bumlin, Cloonfinlough, Killukin (in Roscommon Rural District), Strokestown, Annaghmore, Tulsk, Coolougher, Ballinlough, Kiltullagh, Cloonfower, Artagh South, Artagh North, Ballaghaderreen, Edmondstown, Loughglinn, Buckill, Fairymount, Castlereagh, Frenchpark, Bellangare, Castleplunket, Baslick, Breedoge, Altagowlan, Lough Allen, Ballyfarnan, Keadue, Aghafin, Ballyformoyle, Crossna, Kilbryan, Boyle Rural, Boyle Urban, Tivannagh, Rushfield, Tumna North, Tumna South, Killukin (in Boyle No. 1 Rural District), Oakport, Rockingham, Danesfort, Cloonteem, Kilmore, Elia, Ballygarden, Aughrim East, Aughrim West, Creeve (in Boyle No. 1 Rural District), Creeve (in Roscommon Rural District), Elphin, Rossmore, Cloonyquinn, Ogulla, Mantua, Lisgarve, Kilmacumsy, Kilcolagh, Estersnow, Croghan, Killummod, Cregga, Cloonygormican, Kilbride South, Kilgefin, Cloontuskert, Drumdaff and Kilteevan.

PART 5

Description of qualifying rural areas of Sligo

The District Electoral Divisions of Ballintogher East, Ballynakill, Lisconny, Drumfin, Ballymote, Cloonoghill, Leitrim, Tobercurry, Kilturra, Cuilmore, Kilfree, Coolavin, Killaraght, Templevanny, Aghanagh, Kilmactranny, Ballynashee, Shancough, Drumcolumb, Riverstown, Lakeview, Bricklieve, Drumrat, Toomour, Kilshalvy, Killadoon, Streamstown, Cartron, Coolaney, Owenmore, Temple, Annagh, Carrickbannagher, Collooney and Ballintogher West.''.

PART 2

Customs and Excise

Chapter 1

Vehicle Registration Tax

Interpretation (*Chapter 1*).

78.—In this Chapter ''the Act of 1992'' means the Finance Act, 1992.

Amendment of section 130 (interpretation) of Act of 1992.

79.—Section 130 (as amended by the Finance (No. 2) Act, 1992) of the Act of 1992 is hereby amended by the insertion in the definition of ''mechanically propelled vehicle'' after ''adapted and used for invalids'' of ''or a vehicle as respects which the Commissioners are satisfied that it is not capable of being propelled mechanically''.

Amendment of section 132 (charge of excise duty) of Act of 1992.

80.—As respects vehicle registration tax charged, levied and paid as on and from the 1st day of January, 1998, section 132 of the Act of 1992 is hereby amended in subsection (3) (inserted by the Finance (No. 2) Act, 1992)—

(*a*) in paragraph (*a*), by the substitution of ''28 per cent.'' for ''29.25 per cent.'' (inserted by section 85 of the Finance Act, 1994), and

(*b*) in paragraph (*b*), by the substitution of ''22.5 per cent.'' for ''23.2 per cent.'' (inserted by section 85 of the Finance Act, 1994).

Amendment of section 134 (permanent reliefs) of Act of 1992.

81.—Section 134 of the Act of 1992 is hereby amended—

(*a*) in subsection (11) (inserted by section 54 of the Finance Act, 1993), by the addition of the following proviso to paragraph (*b*):

> ''Provided that for the purposes of subsections (11) to (14) a vehicle shall not include a vehicle hired, lent or otherwise given or arranged by an authorised person as a replacement vehicle for a vehicle either being repaired or due to be repaired by him or on his behalf and not previously declared under subsection (11).'',

(*b*) by the substitution of the following subsection for subsection (13) (inserted by section 54 of the Finance Act, 1993):

> ''(13) A repayment to a person under subsection (11) shall not be made—
>
> (*a*) where a vehicle has travelled less than 5,000 miles from the date of its declaration for registration,
>
> (*b*) where a vehicle is removed from hire within 3 months of the date of its declaration for registration,

(*c*) where a vehicle is removed from hire prior to the 31st day of August in the year of its declaration for registration,

(*d*) where a vehicle is not at a premises used by the person for the purpose of carrying on the business of hiring vehicles under short-term self-drive contracts within 10 working days of the date of its declaration for registration,

(*e*) where any vehicle registration tax or value-added tax payable by the person by the date of repayment has not been paid, or

(*f*) in respect of a vehicle on which motor vehicle excise duty under the Order of 1979 has been paid prior to the 1st day of January, 1991.'',

and

(*c*) in subsection (15) (inserted by section 54 of the Finance Act, 1993) by the insertion of the following paragraph after paragraph (*a*):

''(*aa*) the vehicle or motor-cycle, as the case may be, has been kept and used for the purpose of demonstration for a period of not less than 3 months from the date of registration, and''.

Amendment of section 139 (offences and penalties) of Act of 1992.

82.—Section 139 of the Act of 1992 is hereby amended in subsection (3)—

(*a*) by the deletion of ''or'' where it last occurs in paragraph (*e*), and

(*b*) by the insertion of the following paragraph after paragraph (*e*):

''(*ee*) to be in possession of the vehicle if it is a converted vehicle in relation to which particulars of the conversion have not been declared in accordance with section 131 or a converted vehicle in relation to which particulars of the conversion have been so declared but vehicle registration tax has not been paid on the declaration unless he is an authorised person, or''.

Chapter 2

Miscellaneous

Interpretation (*Chapter 2*).

83.—In this Chapter ''the Order of 1975'' means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975).

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Amendment of provisions relating to refreshment houses licences.

84.—The Refreshment Houses (Ireland) Act, 1860, is hereby amended—

(*a*) in section 8 (as amended by section 96 of, and the Sixth Schedule to, the Finance (1909-10) Act, 1910), by the deletion of the following:

''Provided always, that no licence to sell foreign wine by retail to be consumed on the premises shall be granted for any refreshment house which, with the premises belonging thereto and occupied therewith, shall be under the value of eight pounds a year, nor for any refreshment house situated in any city, borough, town or place containing a population exceeding ten thousand according to the then last Parliamentary census, if such refreshment house, with the premises belonging thereto and occupied therewith, shall be under the value of fifteen pounds a year; and'',

and

(*b*) in section 13 (as amended by section 50(2)(*b*) of the Finance Act, 1989), by the deletion of '', and the net annual value of such house, according to the valuation thereof last made for poor law purposes under the laws then in force'' and by the deletion of ''or not of the annual value required by this Act,''.

Amendment of section 21 (hours of business in registered premises) of Betting Act, 1931.

85.—Section 21(1) of the Betting Act, 1931, is hereby amended as on and from the 1st day of April, 1999, by the substitution of the following subsection for subsection (1):

''(1) 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 and in the case of any other day—

(*a*) from the 1st day of September in any year to the 31st day of March in the following year, at any time before the hour of seven o'clock in the morning and after the hour of half past six o'clock in the evening of such other day, and

(*b*) from the 1st day of April in any year to the 31st day of August in that year, at any time before the hour of seven o'clock in the morning and after the hour of ten o'clock in the evening of such other day.''.

Increase in duty on bookmaker's premises registration certificate.

86.—The duty of excise imposed by section 18 of the Finance Act, 1931, on the registration, or on the renewal of the registration, under the Betting Act, 1931, of any premises in which the business of bookmaking is carried on shall be charged, levied and paid, as on and from the 1st day of December, 1999, at the rate of £300 in lieu of the rate specified at reference number 5 in Part IV of the Sixth Schedule to the Finance Act, 1992, and accordingly from that date the reference, opposite that reference number in column 4 (operative date), to the 1st day of December, 1992, shall be construed as a reference to the 1st day of December, 1999, and the reference, opposite that reference number in column 5 (rate of duty), to £200 shall be construed as a reference to £300.

Amendment of section 43 (gaming machine licence duty) of Finance Act, 1975.

87.—(1) Section 43 of the Finance Act, 1975, is hereby amended in paragraph (*aa*) (inserted by section 74(2) of the Finance Act, 1980) of subsection (7) by the substitution of ''Fridays, Saturdays, Sundays and holidays'' for ''Saturdays, Sundays and holidays'' in both places where it occurs.

(2) (*a*) *Subsection (1)* shall apply with effect from the 1st day of May, 1998, in respect of a gaming machine licence, of the type referred to in section 43(7)(*aa*) of the Finance Act, 1975, granted on or after that date under section 43(4) of the Finance Act, 1975.

(*b*) In respect of a gaming machine licence, of the type referred to in section 43(7)(*aa*) of the Finance Act, 1975, granted before the 1st day of May, 1998, under section 43(4) of the Finance Act, 1975, which is a subsisting licence at that date, *subsection (1)* shall apply with effect from that date for the balance of the period for which such licence remains in force.

Amendment of section 123 (rates of duty) of Finance Act, 1992.

88.—(1) Section 123 of the Finance Act, 1992, is hereby amended in the proviso (inserted by section 88 of the Finance Act, 1994) to paragraph (*c*) (inserted by section 70 of the Finance Act, 1993) by the substitution of ''Fridays, Saturdays, Sundays and public holidays'' for ''Saturdays, Sundays and public holidays''.

(2) (*a*) *Subsection (1)* shall apply with effect from the 1st day of May, 1998, in respect of an amusement machine licence, of the type referred to in section 123(*c*) of the Finance Act, 1992, granted on or after that date under section 122 of the Finance Act, 1992.

(*b*) In respect of an amusement machine licence, of the type referred to in section 123(*c*) of the Finance Act, 1992, granted before the 1st day of May, 1998, under section 122 of the Finance Act, 1992, which is a subsisting licence at that date, *subsection (1)* shall apply with effect from that date for the balance of the period for which such licence remains in force.

Hydrocarbons.

89.—(1) In this section—

''the Act of 1988'' means the Finance Act, 1988;

''the Act of 1997'' means the Finance Act, 1997.

(2) The duty of excise on mineral hydrocarbon light oil imposed by paragraph 11(1) of the Order of 1975, shall, in lieu of the rate specified in subsection (2) of section 82 of the Act of 1997, be charged, levied and paid, as on and from the 4th day of December, 1997, at the rate of £361.36 per 1,000 litres.

(3) The rebate of duty on mineral hydrocarbon light oil provided for in subsection (3) of section 56 of the Act of 1988, shall, as respects mineral hydrocarbon light oil on which it is shown to the satisfaction of the Revenue Commissioners that duty at the rate specified in *subsection (2)* of this section has been paid on or after the 4th day of December, 1997, be calculated at the rate of £66.92 per 1,000 litres.

(4) For the purposes of the rebate of duty on mineral hydrocarbon light oil provided for in subsection (4) of section 82 of the Act of

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1997, the said subsection (4) shall apply as on and from the 4th day of December, 1997, as if the reference therein to subsection (2) of the said section 82, were a reference to *subsection (2)* of this section.

Amendment of section 21 (duties on hydrocarbon oil) of Finance Act, 1935.

90.—(1) Section 21 of the Finance Act, 1935, is hereby amended—

(*a*) in subsection (15)—

(i) in the definition of "motor vehicle" (as amended by section 84(6) of the Finance Act, 1994) by the insertion after "on roads," of "including any vehicle which is designed, constructed or modified to be suitable for traction on a road by a mechanically propelled vehicle,", and

(ii) by the insertion after the interpretation of "mobile well drilling equipment" (inserted by the said section 84(6)) of the following definition:

"the expression 'fuel tank' means any tank in or on a motor vehicle which is used or is capable of being used to supply fuel for combustion in the engine of the motor vehicle for the purposes of propulsion or of another motor vehicle which can provide traction for such purposes;",

and

(*b*) by the insertion of the following subsection after subsection (15):

"(16) For the purposes of the definition of 'fuel tank' in subsection (15) of this section, it shall be presumed, until the contrary is shown, that a tank is capable of being used to supply fuel for combustion in the engine of a motor vehicle for the purposes of propulsion if there are any outlets from the tank other than—

(*a*) those which are permanently and solely connected to and for the sole supply of fuel for refrigeration, oxygenation, thermal insulation or other specialised systems in or on the motor vehicle, or

(*b*) those which are solely for the purpose of discharging fuel from an oil road tanker to a vessel or tank separate from such oil tanker.".

(2) This section shall come into operation on such day as the Minister for Finance may appoint by order.

Amendment of section 731 (exemption from rates) of Merchant Shipping Act, 1894.

91.—Section 731 of the Merchant Shipping Act, 1894, is hereby amended by the addition of the following proviso:

''Provided that no such exemption shall be allowed in respect of excise duty on any hydrocarbon oil.''.

Amendment of paragraph 8 of Order of 1975.

92.—Paragraph 8 of the Order of 1975 is hereby amended by the substitution of the following subparagraph for subparagraph (4) (inserted by Regulation 17 of the European Communities (Customs and Excise) Regulations, 1992 (S.I. No. 394 of 1992)):

''(4) In this paragraph 'cider and perry' means cider and perry exceeding 1.2% vol. but not exceeding 22% vol. obtained from the fermentation of apple or pear juice and without the addition of any other alcoholic liquor or any liquor or substance which—

(i) imparts colour or flavour, and

(ii) in the opinion of the Revenue Commissioners, significantly alters the character of the product from what it otherwise would be.''.

Deferment of duty on spirits.

93.—Paragraph 4 of the Order of 1975 is hereby amended by the substitution of the following subparagraph for subparagraph (3) as amended by Regulation 4 of the European Communities (Deferred Payment of Excise Duty on Spirits and Imported Made Wine and Beer) Regulations, 1980 (S.I. No. 405 of 1980):

''(3) The Revenue Commissioners may, subject to compliance with such conditions for securing payment of the duty as they may think fit to impose, permit payment of the duty imposed by subparagraph (2) of this paragraph to be deferred to a day not later than—

(*a*) in case the duty is payable on a day in the month of December in any year not later than the 20th day of that month, the last day of that month in the same year, or

(*b*) in any other case, the last day of the month succeeding the month in which the duty is payable.''.

Tobacco products.

94.—(1) In this section and in *Schedule 7*—

''the Act of 1977'' means the Finance (Excise Duty on Tobacco Products) Act, 1977;

''the Act of 1997'' means the Finance Act, 1997;

''cigarettes'', ''cigars'', ''fine-cut tobacco for the rolling of cigarettes'' and ''other smoking tobacco'' have the same meanings as they have in the Act of 1977, as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979 (S.I. No. 296 of 1979), by Regulations 26 and 29 of the European Communities (Customs and Excise) Regulations, 1992 (S.I. No. 394 of 1992) and by section 86 of the Act of 1997.

(2) The duty of excise on tobacco products imposed by section 2 of the Act of 1977, shall, in lieu of the several rates specified in the Seventh Schedule to the Act of 1997, be charged, levied and paid, as on and from the 4th day of December, 1997, at the several rates specified in *Schedule 7.*

Amendment of section 103 (interpretation (Chapter II)) of Finance Act, 1992.

95.—Section 103 (as amended by Regulation 7(*a*) of the European Communities (Customs and Excise) Regulations, 1992 (S.I. No. 394 of 1992)) of the Finance Act, 1992, is hereby amended in subsection (1) by the substitution of the following definition for the definition of ''Community'':

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'' 'Community' means the territory of the Community as defined by the Treaty establishing the European Economic Community and, in particular, Article 227 thereof except for the following national territories:

(*a*) in the case of Germany, the Island of Heligoland and the territory of Büsingen,

(*b*) in the case of Italy, Livigno, Campione d'Italia and the Italian waters of Lake Lugano,

(*c*) in the case of the United Kingdom, the Channel Islands,

(*d*) in the case of Greece, Mount Athos,

(*e*) in the case of Spain, the Canary Islands, Ceuta and Melilla,

(*f*) in the case of France, the overseas Departments of the Republic, and

(*g*) in the case of Finland, the Åland Islands;''.

Amendment of section 111 (accompanying documents) of Finance Act, 1992.

96.—Section 111 (as amended by Regulation 11 of the European Communities (Customs and Excise) Regulations, 1992 (S.I. No. 394 of 1992) and by section 100 of the Finance Act, 1995) of the Finance Act, 1992, is hereby amended—

(*a*) by the substitution of the following subsection for subsection (1):

''(1) With the exception of excisable products—

(*a*) referred to in subsection (2) of section 106, and

(*b*) dispatched or transported by or on behalf of a State vendor or a non-State vendor in accordance with the provisions of section 107,

excisable products, in the course of delivery—

(i) from another Member State to any person in the State,

(ii) from any person in the State to any person in another Member State,

(iii) from the State through another Member State to a place of destination in the State,

(iv) through the State from another Member State to a place of destination in that Member State,

(v) from one Member State through the State to another Member State,

(vi) to the State from another Member State in a case where exemption from excise duty applies under section 113(1), and

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(vii) from the State to another Member State under any exemption provided for in paragraph 1 of Article 23 of the Directive,

shall, at all times while within the State during the course of such delivery, be accompanied by a document (in this Chapter referred to as 'an accompanying document').'',

and

(*b*) by the insertion after subsection (2A) (inserted by the Finance Act, 1995) of the following subsection:

''(2B) Where excisable products are dispatched under a duty-suspension arrangement for delivery to a person in the State in a case where exemption from excise duty applies under subsection (1) of section 113, such person shall take all reasonable steps to ensure that, in addition to the accompanying document, a certificate (to be known as 'the exemption certificate') is dispatched with and accompanies the said excisable products in the course of their delivery.''.

Treatment of losses.

97.—Section 114 of the Finance Act, 1992, is hereby amended by the substitution of the following subsection for subsection (2):

''(2) Losses, other than those referred to in subsection (1), and any shortages of excisable products under a duty-suspension arrangement shall be liable to excise duty at the rate in operation at the time such losses or shortages occurred, as established to the satisfaction of an officer, or at the time such losses or shortages came to the notice of an officer, and duty shall be payable immediately and shall be charged, levied and paid in the prescribed manner by the person authorised to produce, process, hold, transport, deliver or receive (as the case may be) such excisable products.''.

General mutual assistance.

98.—Chapter II of Part II of the Finance Act, 1992, is hereby amended by the insertion of the following section after section 116:

''116A.—(1) In this section—

'authorised officer' means an officer authorised in writing by the Commissioners for the purposes of this section;

'the Council Directive' means Council Directive No. 77/799/EEC of 19 December 1977[1], as amended by Council Directive No. 79/1070/EEC of 6 December 1979[2] and Council Directive No. 92/12/EEC of 25 February 1992[3];

(2)(*a*) The Commissioners and authorised officers may disclose to the competent authorities of another Member State any information concerning excise duties required to be so disclosed by virtue of the Council Directive.

(*b*) Neither the Commissioners nor an authorised officer shall disclose any information in pursuance of the

[1]O.J. No. L336 of 27 December 1977, p.15
[2]O.J. No. L331 of 27 December 1979, p.8
[3]O.J. No. L76 of 23 March 1992, p.1

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Council Directive unless satisfied that the competent authorities of the other Member State concerned are bound by, or have undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the State.

(*c*) Nothing in this section shall permit the Commissioners or an authorised officer to authorise the use of information disclosed by virtue of the Council Directive to the competent authorities of another Member State other than for the purposes of taxation or to facilitate legal proceedings for failure to observe the tax laws of that State.''.

Mutual assistance for the recovery of claims.

99.—Chapter II of Part II of the Finance Act, 1992, is hereby amended by the insertion of the following section after section 116A (inserted by this Act)—

''116B.—(1)(*a*) In this section—

'the Commission Directive' means Commission Directive No. 77/794/EEC of 4 November 1977[1];

'the Council Directive' means Council Directive No. 76/308/EEC of 15 March 1976[2], as amended by Council Directive No. 79/1071/EEC of 6 December 1979[3] and Council Directive No. 92/12/EEC of 25 February 1992.

(*b*) A word or expression that is used in this section and is also used in the Council Directive or in the Commission Directive has, unless the contrary intention appears, the meaning in this section that it has in the Council Directive or the Commission Directive, as the case may be.

(2) The amount of excise duty specified in any request duly made pursuant to the Council Directive by an authority in another Member State for the recovery in the State of any amount claimed by such an authority pursuant to a claim referred to in Article 2 of the Council Directive shall be recoverable in any court of competent jurisdiction by the Minister for Finance and for the purposes of the foregoing the amount shall be regarded as being a debt due to that Minister, by the person against whom the claim is made by such an authority, in respect of a duty or tax under the care and management of the Commissioners or a simple contract debt due by such person to that Minister, as may be appropriate.

(3) The rules laid down in—

(*a*) Articles 4 to 12 and 14 to 17 of the Council Directive,

and

(*b*) Articles 2 to 21 of the Commission Directive,

[1]O.J. No. L333 of 24 December 1977, p.11
[2]O.J. No. L73 of 19 March 1976, p.18
[3]O.J. No. L331 of 27 December 1979, p.10

shall apply in relation to claims in respect of excise duty referred to in Article 2 of the Council Directive which arise in another Member State and which are the subject of legal proceedings instituted under this section.

(4) In any legal proceedings instituted under this section any document which is in the form specified in Annex III to the Commission Directive and which purports to be authenticated in the manner specified in Article 11 of that Directive shall be received in evidence without proof of any seal or signature thereon or that any signatory thereto was the proper person to sign it, and such document shall, until the contrary is shown, be sufficient evidence of the facts therein stated.

(5)(*a*) Legal proceedings instituted under this section for the recovery of any sum shall be stayed if the defendant satisfies the court that legal proceedings relevant to his liability on the claim to which the proceedings so instituted relate are pending, or are about to be instituted, before a court, tribunal or other competent body in another Member State, but any such stay may be removed if the legal proceedings in such Member State are not prosecuted or instituted with reasonable expedition.

(*b*) In any legal proceedings instituted under this section it shall be a defence for the defendant to show that a final decision on the claim to which the proceedings relate has been given in his favour by a court, tribunal or other body of competent jurisdiction in another Member State, and, in relation to any part of a claim to which such legal proceedings relate, it shall be a defence for the defendant to show that such a decision has been given in relation to that part of the claim.

(*c*) No question shall be raised in any legal proceedings instituted under this section as to the defendant's liability on the claim to which the proceedings relate except as provided in paragraph (*b*) of this subsection.

(*d*) For the purposes of this section legal proceedings shall be regarded as pending so long as an appeal may be brought against any decision in the proceedings and for these purposes a decision against which no appeal lies or against which an appeal lies within a period which has expired without an appeal having been brought shall be regarded as being a final decision.''.

Amendment of section 87A (obligation to answer certain questions, detention and arrest) of Finance Act, 1995.

100.—Section 87A (inserted by the Finance Act, 1997) of the Finance Act, 1995, is hereby amended by the substitution in paragraph (*b*) of subsection (3) of ''such member may arrest the person without warrant'' for ''such officer may arrest the person without warrant''.

Taking of samples and analysis (customs and excise).

101.—(1) In this section—

''agency'' means the State Laboratory and any other body or person designated by the State Chemist or the Commissioners for the purpose of this section to analyse, test or examine a sample forwarded to such agency;

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''the Commissioners'' means the Revenue Commissioners;

''functions'' includes powers and duties;

''officer'' means an officer of the Commissioners;

''owner'', in relation to goods, includes a person in charge of or in possession of the goods;

''prescribed'' means prescribed by regulations made by the Commissioners under *subsection (14)*;

''record'' means a record in, or capable of being read in, a legible form;

''the State Chemist'' means the head of the State Laboratory or the person for the time being duly exercising the functions of the State Chemist or a person appointed under *subsection (11)* to carry out the functions of the State Chemist under this section.

(2) This section shall apply to samples of any goods taken by an officer under the laws relating to customs or the laws relating to excise where the officer considers that any of the samples may, subsequently, be required to be analysed, tested or examined by an agency for the purpose of deciding whether any proceedings should be instituted under those laws or, where it has been so decided, for the purpose of such proceedings.

(3) Where *subsection (2)* applies, the officer shall—

(*a*) where the owner or the owner's representative is present, inform him or her of the goods in respect of which the officer intends to take samples, and

(*b*) in respect of the goods concerned take, where possible, at least 2 samples or otherwise a single sample thereof and

(i) seal each sample, or

(ii) where already packaged in a container suitable for sealing, seal, in respect of each such sample, the container in which it is packaged, or

(iii) where appropriate in the circumstances, place each sample in a separate container and seal each such container.

(4) Before sealing a sample or container under *subsection (3)(b)*, the officer concerned shall satisfy himself or herself that the sample or the container (as the case may be) is in a condition suitable for sealing.

(5) One of the samples of goods to which *subsection(3)(b)* relates shall—

(*a*) where *subsection (3)(a)* also applies, be offered to the owner of the goods or the owner's representative and such person may choose the sample to be given to him or her, and

(*b*) in any other case, be given to the owner of the goods, or the owner's representative, upon request made—

(i) having regard to the nature of the sample, including any perishable nature, within a reasonable period, or

(ii) within 3 months,

of the sample being sealed in accordance with *subsection (3)(b)*, whichever first occurs, but nothing in this paragraph shall be construed as preventing the sample being so given upon a request made subsequently:

Provided that this subsection shall not apply where the samples relate to goods all of which have been detained or seized under the laws relating to customs or the laws relating to excise.

(6) Where an officer decides that a sample to which *subsection (3)(b)* relates is to be analysed, tested or examined by an agency in accordance with this section, an officer shall, as soon as practicable, forward it or cause it to be forwarded to an agency.

(7) Where a sample to which this section relates has been forwarded to the State Laboratory for the purpose of being analysed, tested or examined by an agency, the State Chemist may have it analysed, tested or examined by either—

(*a*) the State Laboratory, or

(*b*) an agency designated under *subsection (10)*,

and where the State Chemist decides that *paragraph (b)* should apply to a sample, he or she shall, as soon as practicable, forward it or cause it to be forwarded to that agency.

(8) Where a sample is taken, sealed, offered to the owner or the owner's representative, stored, given to the owner or the owner's representative, forwarded or caused to be forwarded to an agency by an officer each such officer shall keep a record thereof, and a record of any other matter that may be prescribed for the purpose of this subsection.

(9) Every agency to which this section relates, shall, upon receipt of a sample, check whether it, or the container in which it is received, has a seal and, if it has, that the seal is intact and shall keep a written record thereof as well as a record of the receipt, storage and of any other matter that may be prescribed for the purpose of this subsection.

(10) The State Chemist and the Commissioners may each designate in writing one or more than one body or person for the purpose of this section to analyse, test or examine a sample forwarded to such body or person, or a class of specified samples or samples generally and each such body or person shall be an agency for the purposes of this section.

(11)(*a*) Without prejudice to the exercise at any time by the State Chemist of his or her functions under this section, the State Chemist may authorise in writing one or more than one person employed in the State Laboratory to carry out those functions, and any such authorisation shall continue until revoked by the State Chemist for the time being or the person so authorised ceases to be employed in the State Laboratory.

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(*b*) The functions of the Commissioners to designate one or more than one agency for the purposes of this section may be exercised by any officer duly authorised in writing to carry out those functions.

(12) Where in any proceedings under the laws relating to customs or under the laws relating to excise there is produced a document which purports to be—

(*a*) a designation in writing under *subsection (10)* or a certificate signed by the State Chemist, by one of the Commissioners or by a person authorised under *paragraph (a)* or *(b)* of *subsection (11)* that a body or person is an agency for the purposes of this section in respect of a specified sample, a class of specified samples or samples generally (as the case may be),

(*b*) an authorisation in writing under *paragraph (a)* or *(b)* of *subsection (11)* or a certificate signed by the State Chemist or a Commissioner that a person is authorised to carry out the functions referred to in the said *paragraph (a)* or *(b)*, as appropriate,

(*c*) a certificate from the State Laboratory or other agency certifying—

(i) that the agency concerned received the sample or container concerned with its seal unbroken or that it had no seal,

(ii) that the sample concerned was analysed, tested or examined, as the case may be, and

(iii) the conclusions, results or facts to be deduced from such analysis, test or examination, as the case may be,

then, until the contrary is shown, such document shall be sufficient evidence of the facts stated therein without proof of any signature or seal on it or that any signatory was a proper person to sign or authenticate the seal on it.

(13) Where a document has been issued under *subsection (12)*, it shall be presumed, until the contrary is shown, that the provisions of either or both *subsections (6)* and *(7)*, as appropriate, have been complied with in respect of the sample concerned.

(14) The Commissioners may make regulations for the purpose of giving effect to this section.

(15) In any proceedings under the laws relating to customs or under the laws relating to excise, nothing in this section shall be construed as preventing from being duly produced, otherwise than in accordance with the other provisions of this section, evidence of—

(*a*) the taking of a sample of goods under those laws, or

(*b*) any conclusions, results or facts deduced from any analysis, test or examination, as the case may be, of such a sample.

Transmission of samples for analysis.

102.—(1) In this section ''agency'', ''officer'', ''the State Chemist'' and ''the Commissioners'' have the same meaning as they have in *section 101*.

(2) Where, under the laws relating to customs or under the laws relating to excise, a sample is taken by an officer and it is decided to send it to an agency to be analysed, tested or examined and where the provisions of *section 101* do not apply, an officer or the State Chemist may forward it or cause it to be forwarded to such agency.

Institution of proceedings under Customs Acts, etc.

103.—Notwithstanding anything to the contrary in the Customs Acts or otherwise, an order of the Revenue Commissioners shall not be required for the commencement or continuance of proceedings under those Acts.

PART 3

Value-Added Tax

Interpretation (*Part 3*).

104.—In this Part—

''the Principal Act'' means the Value-Added Tax Act, 1972;

''the Act of 1992'' means the Finance Act, 1992;

''the Act of 1997'' means the Finance Act, 1997.

Amendment of section 3 (supply of goods) of Principal Act.

105.—Section 3 of the Principal Act is hereby amended in subsection (1) by the substitution of the following paragraph for paragraph (*f*)—

''(*f*) the appropriation of goods by a taxable person for any purpose other than the purpose of his business or the disposal of goods free of charge by a taxable person where—

(i) tax chargeable in relation to those goods—

(I) upon their purchase, intra-Community acquisition or importation by the taxable person, or

(II) upon their development, construction, assembly, manufacture, production, extraction or application under paragraph (*e*),

as the case may be, was wholly or partially deductible under section 12, or

(ii) the ownership of those goods was transferred to the taxable person in the course of a transfer of a business or part thereof and that transfer of ownership was deemed not to be a supply of goods in accordance with subsection (5)(*b*), and''.

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Amendment of section 4 (special provisions in relation to the supply of immovable goods) of Principal Act.

106.—Section 4 of the Principal Act is hereby amended by the insertion of the following subsections after subsection (8) (inserted by the Act of 1997):

"(9) Where a disposal of an interest in immovable goods is chargeable to tax and where those goods have not been developed since the date of the disposal of that interest (hereafter referred to in this subsection as 'the taxable interest') any disposal of an interest in those goods after that date by a person other than the person who acquired the taxable interest shall, for the purposes of this Act, be deemed to be a supply of immovable goods to which subsection (6) applies.

(10)(*a*) Where a disposal of an interest in immovable goods is chargeable to tax and the person who acquires that interest is obliged to pay rent to another person (hereafter referred to in this subsection as 'the landlord') under the terms and conditions laid down in respect of that interest, the landlord—

(i) shall, notwithstanding the provisions of section 8, be deemed not to be a taxable person in respect of transactions in relation to those immovable goods other than—

(I) supplies of those immovable goods on which tax is chargeable in accordance with the provisions of this section, or

(II) supplies of other goods or services effected for consideration by the landlord, or

(III) post-letting expenses in respect of that interest,

(ii) shall not be entitled to deduct tax in respect of transactions in relation to those immovable goods other than—

(I) supplies of those immovable goods on which tax is chargeable in accordance with the provisions of this section other than subsection (4), or

(II) supplies of other goods or services effected for consideration by the landlord, or

(III) post-letting expenses in respect of that interest,

(iii) shall be deemed, where that landlord is not the person who made the disposal of the interest, to be a taxable person in respect of post-letting expenses in relation to that interest and shall in relation to those post-letting expenses be entitled to deduct tax, in accordance with section 12, as if those post-letting expenses were for the purposes of the landlord's taxable supplies.

(*b*) For the purposes of this subsection post-letting expenses in relation to an interest in immovable goods are expenses which the landlord incurs—

(i) in carrying out services which the landlord is obliged to carry out under the terms and conditions of the written contract entered into on the disposal of the interest which was chargeable to tax but does not include transactions the obligation to perform which is not reflected in the consideration on which tax was charged on the disposal of that interest, or

(ii) which directly relate to the collection of rent arising under the contract referred to in subparagraph (i), or

(iii) which directly relate to a review of rent where the terms and conditions of the contract referred to in subparagraph (i) provide for such a review, or

(iv) which directly relate to the exercise of an option to extend the interest or to exercise a break-clause in relation to that interest where the terms and conditions of the contract referred to in subparagraph (i) provide for such an option or such a break–clause,

but do not include any expenses relating to goods or services of the type specified in section 12(3).".

Amendment of section 5 (supply of services) of Principal Act.

107.—Section 5 of the Principal Act is hereby amended—

(*a*) in subsection (6)—

(i) by the insertion in paragraph (*dd*) (inserted by the Act of 1997) after ''a telecommunications service'' of '', or a telephone card as defined in subsection (6A),'',

(ii) by the insertion of the following paragraph after paragraph (*dd*):

''(*ddd*) The place of supply of a telecommunications service or of a telephone card as defined in subsection (6A) shall be deemed, for the purposes of this Act, to be the State when that service is supplied by a taxable person from an establishment in the State and it is received, otherwise than for a business purpose, by a person whose usual place of residence is situated outside the Community, and it is effectively used and enjoyed in the State.'',

(iii) by the insertion in paragraph (*e*) (inserted by the Finance Act, 1986) after ''specified in the Fourth Schedule'' of ''with the exception of the supply of services referred to in paragraphs (*ddd*) and (*ee*) in the circumstances specified in those paragraphs respectively and'', and

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(iv) by the insertion of the following paragraph after paragraph (*e*):

''(*ee*) The place of supply of services of the description specified in paragraph (v) of the Fourth Schedule shall be deemed, for the purposes of this Act, to be the State, when those services are supplied by a person in the course or furtherance of business established in the State and they are received, otherwise than for a business purpose, by a person whose usual place of residence is situated outside the Community, and they are effectively used and enjoyed in the State.'',

and

(*b*) by the insertion of the following subsection after subsection (6):

''(6A) (*a*) Subject to paragraph (*b*), where the supply of a telephone card is taxable within the State and that telephone card is subsequently used outside the Community for the purpose of accessing a telecommunications service, the place of supply of that telecommunications service shall be deemed to be outside the Community and the supplier of that telephone card shall be entitled, in the taxable period within which that supplier acquires proof that that telephone card was so used outside the Community, to a reduction of the tax payable by that supplier in respect of the supply of that telephone card, by an amount calculated in accordance with paragraph (*c*).

(*b*) Where the supply of a telephone card is taxable in the State and the person liable for the tax on that supply is a person referred to in section 8(2)(*a*) who—

(i) is not entitled to a deduction, in accordance with section 12, of all of the tax chargeable in respect of that supply, or

(ii) is entitled to a deduction, in accordance with section 12, of the tax chargeable in respect of that supply because that card was acquired for the purposes of resale,

and that telephone card is subsequently used outside the Community for the purpose of accessing a telecommunications service, the place of supply of that telecommunications service shall be deemed to be outside the Community and the person who is taxable in respect of that supply of that telephone card shall be entitled, in the taxable period within which that person acquires proof that that telephone card was so used outside the Community, to a reduction of the tax payable in respect of that supply of that telephone card

to the extent that that telephone card was so used. Pt.3 S.107

(*c*) For the purposes of this subsection the amount of the reduction referred to in paragraph (*a*) shall be calculated as follows:

$$(A-B) \times \frac{C}{C + 100}$$

where—

A equals the tax inclusive price charged by the supplier for that part of the right contained in the telephone card which was consumed in accessing the telecommunications service which was deemed to be supplied outside the Community,

B equals the tax inclusive price charged to the supplier for that part of the right contained in the telephone card which was consumed in accessing the telecommunications service which was deemed to be supplied outside the Community, and

C is the percentage rate of tax chargeable on the supply of the telephone card at the time of that supply by that supplier.

(*d*) Where a telephone card is used to access a telecommunications service, the value of the telephone card so used shall, for the purposes of section 10(2), be disregarded.

(*e*) In this subsection 'telephone card' means a card or a means other than money which confers a right to access a telecommunications service and for which, when the card or other means is supplied to a person other than for the purposes of resale, the supplier is entitled to a consideration in respect of the supply and for which the user of that card or other means is not liable for any further charge in respect of the receipt of the telecommunications service accessed by means of that card or other means.''.

Amendment of section 8 (taxable persons) of Principal Act.

108.—Section 8 of the Principal Act is hereby amended in subsection (3)—

(*a*) in paragraph (*a*):

(i) by the insertion of the following subparagraph after subparagraph (i):

''(i*a*) goods being livestock semen, the total consideration has not exceeded and is not likely to exceed £40,000 and, in calculating that total consideration, supplies of livestock semen to—

(I) any other farmer licensed as an artificial insemination centre in accordance with the provisions of the Live Stock (Artificial Insemination) Act, 1947, or

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(II) a taxable person over whom that farmer exercises control,

shall be disregarded, or'',

(ii) by the substitution in subparagraph (iii) (inserted by the Act of 1997) of "services specified in subparagraph (i) and either or both of goods of the type specified in subparagraph (i*a*) and goods of the type specified in subparagraph (ii) supplied in the circumstances set out in that subparagraph" for "services and goods specified in subparagraph (i) and (ii)",

(iii) by the insertion of "or" at the end of subparagraph (iii), and

(iv) by the insertion of the following after subparagraph (iii):

"(iv) goods of the type specified in subparagraph (i*a*) and goods of the type specified in subparagraph (ii) supplied in the circumstances set out in that subparagraph, the total consideration has not exceeded and is not likely to exceed £40,000,",

(*b*) in subparagraph (i*a*) (inserted by the Act of 1997) of the proviso thereto by the insertion after ''paragraph (*a*)(i)'' of '', (*a*)(i*a*)''.

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

109.—Section 10 of the Principal Act is hereby amended in subsection (6) by the insertion after ''goods or services'' of '', other than telecommunications services,''.

Amendment of section 11 (rates of tax) of Principal Act.

110.—Section 11 of the Principal Act is hereby amended in subsection (1) (inserted by the Act of 1992) by the substitution in paragraph (*f*) of ''3.6 per cent'' for ''3.3 per cent.'' (inserted by the Act of 1997).

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

111.—Section 12 of the Principal Act is hereby amended—

(*a*) by the insertion in subsection (1)(*b*)(iii) after "outside the State" of ", other than services consisting of the hiring out of motor vehicles (as defined in subsection (3)(*b*)) for utilisation in the State,", and

(*b*) by the substitution in subsection (2) of "sections 20(1A) and 20(5)" for "section 20(1A)".

Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.

112.—Section 12A (inserted by the Value-Added Tax (Amendment) Act, 1978) of the Principal Act is hereby amended in subsection (1) by the substitution of ''3.6 per cent'' for ''3.3 per cent.'' (inserted by the Act of 1997).

Amendment of section 13 (remission of tax on goods exported, etc.) of Principal Act.

113.—Section 13 of the Principal Act is hereby amended in subsection (3)(*c*) by the substitution of "or in respect of motor vehicles (as defined in section 12(3)(*b*))" for "or in respect of means of transport".

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Amendment of section 20 (refund of tax) of Principal Act.

114.—Section 20 of the Principal Act is hereby amended—

(*a*) by the substitution of the following subsection for subsection (4):

''(4)(*a*) In relation to any taxable period ending before the 1st day of May, 1998, no refund shall, subject to paragraph (*b*), be made under this section or any other provision of this Act or regulations unless a claim for that refund is made within the period of ten years from the end of the taxable period to which the claim relates.

(*b*) In relation to any taxable period commencing on or after the 1st day of May, 1998, and on or after the 1st day of May, 1999, in relation to any other taxable period, no refund shall be made under this section or under any other provision of this Act or regulations unless a claim for that refund is made within the period of six years from the end of the taxable period to which that claim relates.'',

and

(*b*) by the substitution of the following subsection for subsection (5) (inserted by the Act of 1992):

''(5)(*a*) Where, due to a mistaken assumption in the operation of the tax, whether that mistaken assumption was made by a taxable person, any other person or the Revenue Commissioners, a person accounts for an amount of tax for which that person was not properly accountable, hereafter referred to in this subsection as the 'overpaid amount', that person may claim a refund of the overpaid amount and the Revenue Commissioners shall, subject to the provisions of this subsection, refund to the claimant the overpaid amount unless that refund would result in the unjust enrichment of the claimant.

(*b*) Unjust enrichment of the claimant for the purposes of this section means the refund to a claimant of an overpaid amount or any part of an overpaid amount in circumstances where the cost of such overpaid amount or part thereof was, for practical purposes, passed on by the claimant to other persons in the price charged by the claimant for goods or services supplied by the claimant.

(*c*) Where, in relation to any claim under paragraph (*a*), the Revenue Commissioners have withheld an amount of the overpaid amount claimed under paragraph (*a*) as it would result in the unjust enrichment of the claimant the Revenue Commissioners shall, notwithstanding the provisions of paragraph (*a*), refund to the claimant out of the

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amount withheld, the amount quantified at paragraph (*d*)(iii) which would appropriately compensate the claimant for any loss of profits due to the mistaken assumption made in the operation of the tax, where the Revenue Commissioners are satisfied that the conditions in paragraph (*d*) have been met.

(*d*) The conditions referred to in paragraph (*c*), are that the claimant must—

(i) establish, based on an economic analysis which takes into account the price elasticity of demand of the goods or services supplied by the claimant, that the claimant's business has suffered a loss of turnover due to the mistaken assumption made in the operation of the tax,

(ii) quantify the extent of that loss,

(iii) quantify the extent of the claimant's loss of profits due to that loss of turnover.

(*e*) Where, in relation to any claim under paragraph (*a*), the Revenue Commissioners have withheld an amount of the overpaid amount claimed under paragraph (*a*) as it would result in the unjust enrichment of the claimant the Revenue Commissioners shall, notwithstanding the provisions of paragraph (*a*), refund to the claimant that part of the withheld amount which the claimant has undertaken to repay to the persons to whom the cost of the overpaid amount was passed on where they are satisfied that the claimant has adequate arrangements in place to identify and repay those persons.

(*f*) Where a claimant receives a refund in accordance with paragraph (*e*) and fails to repay the persons concerned at the latest by the thirtieth day next following the payment by the Revenue Commissioners of that refund, then any amount not so repaid shall, for the purposes of this Act, be treated as if it were tax due by the claimant for the taxable period within which that day falls.''.

Amendment of section 30 (time limits) of Principal Act.

115.—Section 30 of the Principal Act is hereby amended in subsection (4) by the substitution of the following paragraphs for paragraph (*a*):

"(*a*)(i) In relation to any taxable period ending before the 1st day of May, 1998, an estimation or assessment of tax under section 22 or 23 may, subject to subparagraph (ii), be made at any time not later than ten years

after the end of the taxable period to which the estimate or assessment relates or, where the period in respect of which the estimate or assessment is made consists of two or more taxable periods, after the end of the earlier or earliest taxable period comprised in such period.

(ii) In relation to any taxable period commencing on or after the 1st day of May, 1998, and on or after the 1st day of May, 1999, in relation to any other taxable period, an estimation or assessment of tax under section 22 or 23 may be made at any time not later than six years after the end of the taxable period to which the estimate or assessment relates or, where the period in respect of which the estimate or assessment is made consists of two or more taxable periods, after the end of the earlier or earliest taxable period comprised in such period.

(*aa*) Notwithstanding paragraphs (*a*)(i) and (*a*)(ii) in a case in which any form of fraud or neglect has been committed by or on behalf of any person in connection with or in relation to tax, an estimate or assessment as aforesaid may be made at any time for any period for which, by reason of the fraud or neglect, tax would otherwise be lost to the Exchequer.''.

Amendment of Second Schedule to Principal Act.

116.—The Second Schedule to the Principal Act is hereby amended—

(*a*) by the insertion of the following paragraph after paragraph (v*b*) (inserted by the Finance Act, 1993):

''(v*c*) the supply of navigation services by the Irish Aviation Authority to meet the needs of aircraft used by a transport undertaking operating for reward chiefly on international routes;'',

and

(*b*) by the substitution of the following paragraph for paragraph (xv*a*) (inserted by the Finance Act, 1982):

''(xv*a*) printed books and booklets including atlases but excluding—

(*a*) newspapers, periodicals, brochures, catalogues and programmes,

(*b*) books of stationery, cheque books and the like,

(*c*) diaries, organisers, yearbooks, planners and the like the total area of whose pages consist of 25 per cent or more of blank spaces for the recording of information,

(*d*) albums and the like, and

(*e*) books of stamps, of tickets or of coupons.''.

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Amendment of Sixth Schedule to Principal Act.

117.—The Sixth Schedule (inserted by the Act of 1992) to the Principal Act is hereby amended—

(*a*) by the insertion of the following paragraphs after paragraph (xi*a*) (inserted by the Act of 1997):

''(xi*b*) animal insemination services;

(xi*c*) livestock semen;

(xi*d*) live poultry and live ostriches;'',

and

(*b*) by the substitution of the following paragraph for paragraph (xii):

''(xii) printed matter consisting of:

(*a*) newspapers and periodicals;

(*b*) brochures, leaflets and programmes;

(*c*) catalogues, including directories, and similar printed matter;

(*d*) maps, hydrographic and similar charts;

(*e*) printed music other than in book or booklet form;

but excluding:

(i) other printed matter wholly or substantially devoted to advertising,

(ii) the goods specified in subparagraphs (*b*) to (*e*) of paragraph (xv*a*) of the Second Schedule, and

(iii) any other printed matter;''.

PART 4

Stamp Duties

Amendment of section 54 (meaning of ''conveyance on sale'') of Stamp Act, 1891.

118.—Section 54 of the Stamp Act, 1891, is hereby amended by the substitution of ''upon the sale or compulsory acquisition thereof'' for ''upon the sale thereof''.

Amendment of section 59 (certain contracts to be chargeable as conveyances on sale) of Stamp Act, 1891.

119.—(1) Section 59 of the Stamp Act, 1891, is hereby amended by the insertion of the following subsection after subsection (6):

"(7) In subsection (1) 'stock, or marketable securities' does not include a share warrant issued in accordance with the provisions of section 88 of the Companies Act, 1963.".

(2) This section shall apply to contracts or agreements for the sale of share warrants entered into on or after the 4th day of March, 1998.

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120.—The heading ''BILL OF EXCHANGE or PROMISSORY NOTE'' in the First Schedule to the Stamp Act, 1891, is hereby amended— Amendment of First Schedule to Stamp Act, 1891.

(*a*) by the substitution for ''drawn in the State . . . . . 7p'' of the following:

''Where drawn on an account in the State ... 7p

In any other case:

Where drawn or made in the State ... 7p'';

and

(*b*) by the insertion of the following exemptions:

''(10) Direct debits and standing orders.

(11) Bill drawn on an account outside the State.''.

121.—(1) Section 92 of the Finance Act, 1982, is hereby amended in subsection (1) by the substitution, in paragraph (*c*) of the definition of ''excluded amount'', of ''classes I, II, III, IV, V, VI, VII, VIII and IX'' for ''class VII''. Amendment of section 92 (levy on certain premiums of insurance) of Finance Act, 1982.

(2) Subsection (8) (inserted by the Finance Act, 1984) of section 92 of the Finance Act, 1982, is hereby repealed.

122.—Section 203 of the Finance Act, 1992, is hereby amended in subsection (2): Amendment of section 203 (stamp duty in respect of cash cards) of Finance Act, 1992.

(*a*) by the substitution in subparagraph (B) of paragraph (II) of the proviso of ''*paragraph (a), (b)* or *(c)*, or'' for ''*paragraph (a), (b)* or *(c)*,'', and

(*b*) by the insertion in the proviso of the following paragraph after paragraph (II):

''(III) if the cash card is a replacement for a cash card which is already included in the relevant statement,''.

123.—(1) Section 107 of the Finance Act, 1996, is hereby amended in subsection (1) by the substitution of the following proviso for the proviso to that subsection: Amendment of section 107 (relief for member firms) of Finance Act, 1996.

''Provided that:

(*a*) if and to the extent that the member firm does not transfer those securities to a bona fide purchaser before the expiration of the period of one month from the date of transfer, hereinafter in this section referred to as 'the specified period', the member firm shall pay to the Commissioners within 14 days after the expiration of the specified period the amount of *ad valorem* duty which would have been chargeable on the transfer if this section had not been enacted;

(*b*) the member firm may, in relation to any such sale with a completion date not later than 30 days from the date of the contract for sale and prior to the date of the contract, elect to have such completion date

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treated as the date of the second-mentioned transfer referred to in *paragraph (a)* and, in that event, that completion date shall be deemed, for the purposes of *paragraph (a)*, to be the date of that second-mentioned transfer.''.

(2) This section shall have effect as respects instruments executed on or after the date of the passing of this Act in pursuance of contracts for sale entered into on or after the date of the passing of this Act.

Interest on unpaid or overpaid stamp duty.

124.—(1)(*a*) This subsection applies to—

(i) section 15(1) (inserted by the Finance Act, 1991) of the Stamp Act, 1891,

(ii) section 69(2) (inserted by the Finance Act, 1979) of the Finance Act, 1973,

(iii) sections 16(6) and 17(5)(*b*) of the Finance (No. 2) Act, 1981,

(iv) sections 91(6) and 92(6) of the Finance Act, 1982,

(v) section 90(6) of the Finance Act, 1983,

(vi) section 97(6) of the Finance Act, 1984,

(vii) section 55(6) of the Finance Act, 1985,

(viii) sections 92(6) and 93(6) of the Finance Act, 1986,

(ix) section 48(6) of the Finance Act, 1987,

(x) section 64(6) of the Finance Act, 1988,

(xi) section 64(6) of the Finance Act, 1989,

(xii) sections 108(6), 109(5) and 113(4) of the Finance Act, 1990,

(xiii) section 89(6) of the Finance Act, 1991,

(xiv) sections 200(6) and 203(6) of the Finance Act, 1992,

(xv) section 112(6) of the Finance Act, 1994,

(xvi) sections 142(6) and 150(3) of the Finance Act, 1995, and

(xvii) section 107(2) of the Finance Act, 1996.

(*b*) Where any interest to which this subsection applies is chargeable, for any period commencing on or

after the date of the passing of this Act, in respect of stamp duty due to be paid whether before, on or after such date, such interest shall be chargeable at the rate of 1 per cent per month or part of a month in the case of interest which, but for this paragraph, would be chargeable at the rate of 1.25 per cent per month or part of a month, or 15 per cent per annum, as the case may be, specified in those sections and those sections shall have effect as if the rate of 1 per cent per month or part of a month were substituted for the rate so specified.

(2) As respects any month, or part of a month, commencing on or after the date of the passing of this Act, section 69 of the Finance Act, 1973, is hereby amended by the substitution in paragraph (ii) of the second proviso to subsection (1) for ''9 per cent. per annum'' of ''6 per cent per annum''.

(3) As respects any month, or part of a month, commencing on or after the date of the passing of this Act, section 112 of the Finance Act, 1990, is hereby amended—

(*a*) in subsection (3)(*b*) by the substitution for "one per cent." of "0.5 per cent", and

(*b*) in subsection (6) by the substitution for "one per cent." of "0.5 per cent".

Repeals (*Part 4*).

125.—Each enactment mentioned in *column (2)* to *Schedule 8* to this Act is hereby repealed to the extent specified opposite that mention in *column (3)* of that Schedule.

PART 5

Capital Acquisitions Tax

Amendment of section 117 (reduction in estimated market value of certain dwellings) of Finance Act, 1991.

126.—(1) The Finance Act, 1991, is hereby amended by the substitution of the following section for section 117:

''117.—(1) In so far as an inheritance consists of a house or the appropriate part of a house—

(*a*) at the date of the inheritance, and

(*b*) at the valuation date,

and is taken by a successor who, at the date of the inheritance, is a lineal ancestor, a lineal descendant (other than a child, or a minor child of a deceased child), a brother or a sister, or a child of a brother or of a sister, of the disponer, and

(i) has resided continuously with the disponer in the house or, where that house has directly or indirectly replaced other property, in that house and in that other property, for periods which together comprised—

(I) in the case where the successor is a brother or a sister of the disponer and has, at the date of the inheritance, attained the age of 55 years, the 5

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years immediately preceding the date of the inheritance, and

(II) in any other case, the 10 years immediately preceding the date of the inheritance, and

(ii) is not beneficially entitled in possession to any other house or the appropriate part of any other house,

the estimated market value of the house or the appropriate part of the house shall, notwithstanding anything to the contrary in section 15 of the Principal Act, be reduced by 80 per cent or £150,000, whichever is the lesser:

Provided that where the house or the appropriate part of the house comprised in the inheritance is, on both of those dates, agricultural property within the meaning of section 19(1) of the Principal Act and the successor is, at the valuation date and after taking the inheritance, a farmer within the meaning of that section, the provisions of this section shall not apply.

(2) In this section—

'appropriate part', in relation to a house, has the meaning assigned to it in relation to property by subsection (5) of section 5 of the Principal Act;

'house' means a building, or a part of a building used by the disponer as his main or only dwelling together with its garden or grounds of an ornamental nature.''.

(2) This section shall have effect in relation to inheritances taken on or after the 3rd day of December, 1997.

Amendment of section 117 (interest on tax) of Finance Act, 1993.

127.—(1) Section 117 of the Finance Act, 1993, is hereby amended—

(*a*) in paragraph (*b*), by the substitution of "one per cent" for "one and one-quarter per cent.", and

(*b*) in paragraph (*c*), by the substitution of "one per cent" for "one and one-quarter per cent.".

(2) This section shall have effect in relation to probate tax due before, on or after the date of the passing of this Act where the period in respect of which interest is to be charged, or a discount falls to be made, commences on or after that date.

Amendment of section 134 (exclusion of value of excepted assets) of Finance Act, 1994.

128.—Section 134 of the Finance Act, 1994, shall have effect and be deemed always to have had effect as if the following subsections were substituted for subsection (7):

''(7) Where, in relation to a gift or an inheritance—

(*a*) relevant business property consisting of shares in or securities of a company are comprised in the gift or inheritance on the valuation date, and

(*b*) property consisting of a business, or interest in a business, not falling within section 127(4) (hereinafter in this section referred to as 'company

business property') is on that date beneficially owned by that company or, where that company is a holding company of one or more companies within the same group, by any company within that group,

that company business property shall, for the purposes of subsection (1), be excluded property in relation to those shares or securities unless it would, apart from section 127(3), have been relevant business property if—

(i) it had been the subject matter of that gift or inheritance, and

(ii) it had been comprised in the disposition for the periods during which it was in the beneficial ownership of that first-mentioned company or of any member of that group, while being such a member, or actually comprised in the disposition.

(8) In ascertaining whether or not company business property complies with paragraphs (i) and (ii) of subsection (7), the provisions of section 129 shall, with any necessary modifications, apply to that company business property as to a case to which subsection (1) of section 129 relates.''.

Conditions before appeal may be made.

129.—(1) The Capital Acquisitions Tax Act, 1976, is hereby amended by the insertion of the following section after section 52 of that Act:

''52A.—No appeal shall lie under section 51 or 52 until such time as the person aggrieved by the decision or assessment (as the case may be) complies with section 36(2) in respect of the gift or inheritance in relation to which the decision or assessment is made, as if there were no time-limit for complying with section 36(2) and that person were a person primarily accountable for the payment of tax by virtue of section 35(1) and required by notice in writing by the Commissioners to deliver a return.''.

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 12th day of February, 1998.

PART 6

Miscellaneous

Capital Services Redemption Account.

130.—(1) In this section—

''the 1997 amending section'' means section 164 of the Finance Act, 1997;

''capital services'' has the same meaning as it has in the principal section;

''the forty-eighth additional annuity'' means the sum charged on the Central Fund under *subsection (4)*;

''the principal section'' means section 22 of the Finance Act, 1950.

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(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of December, 1998, subsection (4) of the 1997 amending section shall have effect with the substitution of ''£95,826,511'' for ''£94,679,697''.

(3) Subsection (6) of the 1997 amending section shall have effect with the substitution of ''£72,545,813'' for ''£72,772,950''.

(4) A sum of £120,289,536 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of December, 1998.

(5) The forty-eighth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine.

(6) Any amount of the forty-eighth additional annuity, not exceeding £92,457,250 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the forty-eighth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

Interest payments by certain deposit takers.

131.—(1) The Taxes Consolidation Act, 1997, is hereby amended—

(*a*) in section 256(1), by the substitution of the following paragraph for paragraph (*a*) of the definition of "appropriate tax":

"(*a*) in the case of a relevant deposit or relevant deposits held in a special savings account, at the rate of 20 per cent, and",

and

(*b*) in section 891, by the insertion of the following subsection after subsection (1):

"(1A) (*a*) In this subsection, 'credit union' means a society registered under the Credit Union Act, 1997, including a society deemed to be so registered under section 5(3) of that Act.

(*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.".

(2)(*a*) *Paragraph (a)* of *subsection (1)* shall apply as on and from the 6th day of April, 1998.

(*b*) *Paragraph (b)* of *subsection (1)* shall apply as respects chargeable periods (within the meaning of section 321(2) of the Taxes Consolidation Act, 1997) beginning on or after the 1st day of October, 1997.

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Tax clearance for criminal legal aid scheme.

132.—The Criminal Justice (Legal Aid) Act, 1962, is hereby amended, in section 10(1), by the addition of the following after paragraph (*c*):

''(*d*)(i) a requirement that a solicitor who has notified a county registrar in accordance with the Criminal Justice (Legal Aid) Regulations, 1965 (S.I. No. 12 of 1965), of his willingness to act for persons to whom legal aid certificates are granted must, when required to do so by the Minister, furnish to the County Registrar a certificate issued by the Collector-General (within the meaning of section 851 of the Taxes Consolidation Act, 1997) in respect of that solicitor certifying that he has complied with all the obligations imposed on him by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Act, 1972, and the enactments amending or extending that Act (and any instruments made under those Acts) in relation to—

(I) the payment or remittance of the taxes, interest and penalties required to be paid or remitted, and

(II) the delivery of returns,

(ii) a requirement that a barrister, the willingness of whom to act for persons to whom legal aid certificates are granted has been notified to the Minister by the General Council of the Bar of Ireland in accordance with the Criminal Justice (Legal Aid) Regulations, 1965, must, when required to do so by the Minister, furnish to the Minister a certificate issued by the Collector-General (within the meaning of section 851 of the Taxes Consolidation Act, 1997) in respect of that barrister certifying that he has complied with all the obligations imposed on him by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Act, 1972, and the enactments amending or extending that Act (and any instruments made under those Acts) in relation to—

(I) the payment or remittance of the taxes, interest and penalties required to be paid or remitted, and

(II) the delivery of returns,

(*e*) the conditions that must be satisfied before a certificate referred to in paragraph (*d*) of this subsection may be issued by the Collector-General (within the meaning aforesaid),

(*f*) matters consequential on, or incidental to, a requirement or condition prescribed under paragraph (*d*) or (*e*) of this subsection (which may include a provision enabling the deletion from any list kept pursuant to regulations under this subsection of the name of a solicitor or barrister who has failed to comply with a requirement prescribed under the said paragraph (*d*)).''.

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Interest on unpaid or overpaid taxes.

133.—(1) The Taxes Consolidation Act, 1997, is hereby amended—

(*a*) in sections 240(3)(*a*), 531(9) and 991(1) and paragraphs (*a*) and (*b*) of section 1080(1), by the substitution of ''1 per cent'' for ''1.25 per cent'' in each place where it occurs, and

(*b*) in section 953(7), by the substitution of ''0.5 per cent'' for ''0.6 per cent''.

(2) The Finance Act, 1983, is hereby amended—

(*a*) in section 105(1), by the substitution of ''1 per cent'' for ''1.25 per cent.'', and

(*b*) in section 107(2), notwithstanding Regulation 3 of the Payment of Interest on Overpaid Tax Regulations, 1990 (S.I. No. 176 of 1990), by the substitution of ''0.5 per cent'' for ''1.25 per cent.''.

(3) Section 46 of the Finance Act, 1978, is hereby repealed in so far as it relates to value-added tax.

(4) The Capital Acquisitions Tax Act, 1976, is hereby amended—

(*a*) in section 41(2), as construed by reference to section 43 of the Finance Act, 1978, by the substitution of ''1 per cent'' for ''1.25 per cent.'', and

(*b*) in section 46(1), notwithstanding Regulation 3 of the Payment of Interest on Overpaid Tax Regulations, 1990, by the substitution of ''0.5 per cent'' for ''one per cent.''.

(5) The Wealth Tax Act, 1975, is hereby amended—

(*a*) in section 18(2), by the substitution of ''1 per cent'' for ''1.5 per cent.'', and

(*b*) in section 22(2), by the substitution of ''0.5 per cent'' for ''1.5 per cent.''.

(6) This section shall apply as respects interest chargeable or payable under—

(i) sections 240, 531, 953, 991 and 1080 of the Taxes Consolidation Act, 1997,

(ii) sections 105 and 107 of the Finance Act, 1983,

(iii) sections 41 and 46 of the Capital Acquisitions Tax Act, 1976,

(iv) sections 18 and 22 of the Wealth Tax Act, 1975, and

(v) section 21 of the Value-Added Tax Act, 1972,

for any month, or any part of a month, commencing on or after the date of the passing of this Act, in respect of an amount due to be paid or remitted or an amount due to be repaid or retained, as the case may be, whether before, on or after that date in accordance with those provisions.

Pt.6 Appeals.

134.—(1) Part 40 of the Taxes Consolidation Act, 1997, is hereby amended—

(*a*) in Chapter 1, by the insertion of the following section after section 944:

"Publication of determinations of Appeal Commissioners.

944A.—The Appeal Commissioners may make arrangements for the publication of reports of such of their determinations as they consider appropriate, but they shall ensure that any such report is in a form which, in so far as possible, prevents the identification of any person whose affairs are dealt with in the determination.",

and

(*b*) in Chapter 2, by the insertion, in subsection (2) of section 945, of the following paragraph after paragraph (*e*):

"(*ee*) the publication of reports of determinations of the Appeal Commissioners,".

(2) Section 25(2) of the Value-Added Tax Act, 1972, is hereby amended by the insertion of the following paragraph after paragraph (*e*):

"(*ee*) the publication of reports of determinations of the Appeal Commissioners;".

(3) Section 52(5) of the Capital Acquisitions Tax Act, 1976, is hereby amended by the insertion, in paragraph (*a*), of the following subparagraph after subparagraph (v):

"(v*a*) the publication of reports of determinations of the Appeal Commissioners;".

(4) This section shall apply to appeals determined by the Appeal Commissioners after the date of the passing of this Act.

Amendment of Freedom of Information Act, 1997.

135.—The Freedom of Information Act, 1997, is hereby amended in the Third Schedule thereto by the addition to Part I at the end thereof—

(*a*) in column (1), of "No. 39 of 1997",

(*b*) in column (2), of "Taxes Consolidation Act, 1997", and

(*c*) in column (3), of "Section 857".

Post-consolidation amendments.

136.—(1) The provisions of the Taxes Consolidation Act, 1997, referred to in *Schedule 9* shall apply subject to the amendments specified in that Schedule.

(2) This section shall be deemed to have come into force on the 6th day of April, 1997.

Pt.6

Care and management of taxes and duties.

137.—All taxes and duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

138.—(1) This Act may be cited as the Finance Act, 1998.

(2) *Part 1* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

(3) *Part 2* (so far as relating to customs) shall be construed together with the Customs Acts and (so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts, 1972 to 1997, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1998.

(5) *Part 4* shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(6) *Part 5* (so far as relating to capital acquisitions tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act.

(7) *Part 6* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts and (so far as relating to value-added tax) shall be construed together with the Value-Added Tax Acts, 1972 to 1998, and (so far as relating to residential property tax) shall be construed together with Part VI of the Finance Act, 1983, and the enactments amending or extending that Part and (so far as relating to gift tax or inheritance tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act and (so far as relating to wealth tax) shall be construed together with the Wealth Tax Act, 1975, and the enactments amending or extending that Act.

(8) *Part 1* shall, save as is otherwise expressly provided therein, apply as on and from the 6th day of April, 1998.

(9) In relation to *Part 3*:

(*a*) *sections 104*, *110* and *112* and *paragraph (a)* of *section 116* shall be deemed to have come into force and shall take effect as on and from the 1st day of March, 1998;

(*b*) *sections 107* and *109*, *paragraph (b)* of *section 116*, paragraph (xi*d*) of the Sixth Schedule to the Value-Added Tax Act, 1972, as inserted by *paragraph (a)* of *section 117* and *paragraph (b)* of *section 117* shall take effect as on and from the 1st day of May, 1998;

(*c*) *section 108* and paragraphs (xi*b*) and (xi*c*) of the Sixth Schedule to the Value-Added Tax Act, 1972, as inserted by *paragraph (a)* of *section 117* shall take effect as on and from the 1st day of July, 1998;

(*d*) the provisions of this Part, other than those specified in *paragraphs (a), (b)* and *(c)*, shall have effect as on and from the date of passing of this Act. Pt.6 S.138

(10) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment including this Act.

(11) In this Act, a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(12) In this Act, a reference to a subsection, paragraph, subparagraph, clause or subclause is to the subsection, paragraph, subparagraph, clause or subclause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.

SCHEDULE 1

Section 4.

Amendments Consequential on Changes in Personal Reliefs

As respects the year of assessment 1998-99 and subsequent years of assessment, the Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions:

(*a*) in section 461—

(i) in paragraph (*a*), by the substitution of ''£6,300'' for ''£5,800'',

(ii) in paragraph (*b*), by the substitution of ''£3,650'' and ''£6,300'', respectively, for ''£3,400'' and ''£5,800'', and

(iii) in paragraph (*c*), by the substitution of ''£3,150'' for ''£2,900'',

(*b*) in subsection (2) of section 462, by the substitution of ''£2,650'' and ''£3,150'', respectively, for ''£2,400'' and ''£2,900'',

(*c*) in section 465, by the substitution of ''£800'' for ''£700'' in each place where it occurs,

(*d*) in subsection (1) of section 467, by the substitution of ''£8,500'' for ''£7,500'' in each place where it occurs,

and

(*e*) in subsection (2) of section 468, by the substitution of ''£1,000'' for ''£700'' in each place where it occurs and of ''£2,000'' for ''£1,600''.

Section 47.

SCHEDULE 2

Provisions Amending Principal Act in Consequence of a Change in the Currency of Certain States

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. In section 79(1), after paragraph (*b*) there shall be inserted the following paragraph:

''(*c*) For the purposes of this section a gain or loss arising to a company which results directly from a change in a rate of exchange shall include a gain or loss which results directly from an event which substitutes for the currency of a State another currency of that State where the other currency, as a result of the event, becomes the functional currency (within the meaning of section 402) of the company.''.

2. In section 80(1), in the definition of ''specified rate'', for paragraph (*a*) there shall be substituted the following paragraph:

''(*a*) the rate known as the 3 month European Interbank Offered Rate, or''.

3. In section 110(1), in the definition of ''qualifying asset'', in paragraph (*a*), for subparagraph (i) there shall be substituted the following subparagraph:

''(i) which consists of, or of an interest in or a contractual right to, any loan, lease, trade or consumer receivable or other debt or receivable whether secured or unsecured, and''.

4. In section 133(13)—

(*a*) in paragaph (*b*), for ''the rate known as the 3 month Dublin Interbank Offered Rate on Irish pounds (in this subsection referred to as the ''3 month Dublin Interbank Offered Rate'') a record of which is maintained by the Central Bank of Ireland'' there shall be substituted ''the rate known as the 3 month European Interbank Offered Rate'',

(*b*) in paragraph (*c*)—

(i) in subparagraph (i),

and

(ii) in subparagraph (iii),

for ''the 3 month Dublin Interbank Offered Rate'' in each case, there shall be substituted ''the rate known as the 3 month European Interbank Offered Rate''.

5. In section 402(1), after paragraph (*c*) there shall be inserted the following paragraphs:

''(*d*) In this section references to an amount having been incurred in, or computed in terms of, a currency other than the functional currency of a company

shall not include a reference to an amount having been incurred in, or computed in terms of, the currency of a state, which currency has been substituted by another currency of that state, where that other currency is the functional currency of the company. Sch.2

(*e*) For the purposes of this section where at any time, in relation to a state, the currency (hereafter in this paragraph referred to as 'the old currency') is substituted by another currency, the representative rate of exchange of the currency of that state for the currency of another state at any previous time shall mean the representative rate of exchange of the old currency of that state for the currency of that other state.''.

6. In section 404(1)—

(*a*) in paragraph (*a*), in the definition of ''relevant lease payment'', in paragraph (ii), for ''a rate known as the Dublin Interbank Offered Rate and a record of which is kept by the Central Bank of Ireland'' there shall be substituted ''a rate known as the European Interbank Offered Rate'',

and

(*b*) in paragraph (*b*)(ii), for ''the rate known as the 6 month Dublin Interbank Offered Rate and a record of which is maintained by the Central Bank of Ireland'' there shall be substituted ''the rate known as the 6 month European Interbank Offered Rate''.

7. In section 445, after subsection (2) there shall be inserted the following:

''(2A) An operation which would fall within any class or kind of operation specified in a certificate under subsection (2) to be a relevant trading operation but for the fact that it involves the currency of the State shall, with effect from the commencement of *section 47* of the *Finance Act, 1998*, in relation to *paragraph 7* of *Schedule 2* to that Act, be deemed to fall within that class or kind of operation and to have been specified in that certificate as a relevant trading operation.".

8. In section 446—

(*a*) after subsection (2) there shall be inserted the following:

''(2A) An operation which would fall within any class or kind of operation specified in a certificate under subsection (2) to be a relevant trading operation but for the fact that it involves the currency of the State shall, with effect from the commencement of *section 47* of the *Finance Act, 1998*, in relation to *paragraph 8* of *Schedule 2* to that Act, be deemed to fall within that class or kind of operation and to have been specified in that certificate as a relevant trading operation.",

and

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(*b*) in subsection (7)(*c*)—

(i) for subparagraph (i) there shall be substituted the following subparagraph:

''(i) the provision for persons not ordinarily resident in the State of services which are of a type normally provided by a bank in the ordinary course of its trade,'',

(ii) in subparagraph (ii)—

(I) for clause (II) there shall be substituted the following clause:

''(II) international dealings in currencies and in futures, options and similar financial assets,'',

and

(II) for clause (III) there shall be substituted the following clause:

''(III) dealings in bonds, equities and similar instruments,''.

9. After section 541, there shall be substituted the following section:

''Treatment of debts on a change in currency.

541A.—(1) Where on any day a debt (to which section 541 does not apply by virtue of subsection (6) of that section) owed to a person in a currency other than Irish currency, becomes a debt in Irish currency as a result of the currency of a State being substituted by another currency, which other currency also on that day becomes Irish currency, then, subject to subsection (2), that debt shall be deemed, for the purposes of the Capital Gains Tax Acts, on the day preceding that day, to be disposed of by the person and immediately reacquired by the person at its market value.

(2) Notwithstanding any other provision of the Capital Gains Tax Acts, where in respect of a debt a chargeable gain accrues to a person by virtue of subsection (1), that chargeable gain shall be assessed and charged as if it were a chargeable gain which accrued to the person at the time of the disposal of the debt and shall not be assessed and charged otherwise.

(3) For the purposes of subsection (2), in relation to a debt owed to a person, the satisfaction of the debt or part of the debt shall be treated as a disposal of the debt or of that part at the time when the debt or that part is satisfied.''.

10. In section 552, after subsection (1) there shall be inserted the following subsection:

''(1A)(*a*) In this subsection 'rate of exchange' means a rate at which 2 currencies might reasonably be expected

to be exchanged for each other by persons dealing at arm's length. Sch.2

(*b*) For the purposes of subsection (1) where a sum allowable as a deduction was incurred in a currency other than the currency of the State, it shall be expressed in terms of the currency of the State by reference to the rate of exchange of the currency of the State for the other currency at the time that the sum was incurred.''.

SCHEDULE 3

Section 48.

Amendment of Principal Act in Consequence of Convention with United States of America relating to Double Taxation, etc.

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. In section 44(1) in the definition of ''relevant territory'' there shall be deleted ''the United States of America or''.

2. In section 168(1)—

(*a*) in paragraph (*a*)(ii)(II) there shall be deleted ''of the United States of America or'', and

(*b*) in paragraph (*b*) there shall be deleted—

(i) the definition of ''resident of the United States of America'', and

(ii) '', other than the United States of America,''.

3. In section 222(1)(*b*)—

(*a*) in subparagraph (i) there shall be deleted ''of the United States of America or'', and

(*b*) in subparagraph (ii) there shall be deleted—

(i) the definition of ''resident of the United States of America'', and

(ii) ''other than the United States of America''.

4. In section 452—

(*a*) in subsection (1)—

(i) in paragraph (*a*) there shall be deleted the definition of ''resident of the United States of America'', and

(ii) in paragraph (*b*) there shall be deleted '', other than the United States of America,'',

and

(*b*) in subsection (2)(*c*) there shall be deleted ''of the United States of America or''.

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5. In section 627(2)(*a*) there shall be substituted for the definition of ''relevant territory'' the following definition:

'' 'relevant territory' means a territory with the government of which arrangements having the force of law by virtue of section 826 have been made.''.

6. In section 690(2) there shall be deleted—

(*a*) in paragraph (*c*) ''of the United States of America or'',

(*b*) '' 'resident of the United States of America' has the meaning assigned to it by the Convention set out in Schedule 25, and'', and

(*c*) '', other than the United States of America,''.

7. In section 730 for paragraph (*b*) there shall be substituted the following paragraph:

''(*b*) is not entitled to, or disclaims, by notice in writing to the appropriate inspector (within the meaning of section 950(1)), relief in respect of the distribution under arrangements made under section 826 as applied for corporation tax,''.

8. In section 826(1) there shall be deleted ''833 to''.

9. In section 830 for subsection (2) there shall be substituted the following subsection:

''(2) This section shall apply to every territory other than a territory with the government of which arrangements are for the time being in force by virtue of section 826.''.

10. Sections 833 and 834 shall be deleted.

11. In Schedule 22 in paragraph 4(2) there shall be deleted ''or 833''.

12. In Schedule 24 in the definition of ''arrangements'' in paragraph 1(1) there shall be deleted ''or section 12 of the Finance Act, 1950''.

13. Schedule 25 shall be deleted.

Section 51.

SCHEDULE 4

Amendments Consequential on Changes in Amounts of Tax Credits in Respect of Distributions

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. (*a*) In section 145(2) there shall be substituted for paragraph (*b*) the following paragraph:

''(*b*) The reference to certain tax credits in the definition of 'B' in paragraph (*a*) shall, in relation to distributions received by a company which

makes a distribution to which this section applies, be construed— Sch.4

(i) as a reference to such tax credits multiplied by .2295 in so far as they are tax credits in respect of distributions made before the 6th day of April, 1978, or made after the 5th day of April, 1983, and before the 6th day of April, 1988,

(ii) as a reference to such tax credits multiplied by .2883 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1978, and before the 6th day of April, 1983,

(iii) as a reference to such tax credits multiplied by .2626 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1988, and before the 6th day of April, 1989,

(iv) as a reference to such tax credits multiplied by .3178 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1989, and before the 6th day of April, 1991,

(v) as a reference to such tax credits multiplied by .3707 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1991, and before the 6th day of April, 1995,

(vi) as a reference to such tax credits multiplied by .4137 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1995, and before the 6th day of April, 1997, and

(vii) as a reference to such tax credits multiplied by .4649 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1997, and before the 3rd day of December, 1997.''.

(*b*) This paragraph shall apply as respects a distribution made or treated as having been made by a company on or after the 3rd day of December, 1997.

2. In section 729 there shall be substituted for subsection (7) the following subsection:

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

(*a*) where an accounting period begins before the 6th day of April, 1997, and ends on or after that date, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 5th day of April, 1997, and another part beginning on the 6th day of April, 1997, and ending on

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the day on which the accounting period ends and both parts shall be treated as separate accounting periods, and

(*b*) where an accounting period, including a part of an accounting period treated under paragraph (*a*) as a separate accounting period, begins before the 3rd day of December, 1997, and ends on or after that date, it shall be divided into one part beginning on the day on which the accounting period, or the part of an accounting period, as the case may be, begins and ending on the 2nd day of December, 1997, and another part beginning on the 3rd day of December, 1997, and ending on the day on which the accounting period, or the part of an accounting period, as the case may be, ends and both parts shall be treated as separate accounting periods.''.

Section 52.

SCHEDULE 5

Abolition of Tax Credits

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions.

1. In section 136 in subsection (1) after ''Where'' there shall be inserted '', before the 6th day of April, 1999,''.

2. In section 139 in subsection (1) after ''date'' there shall be inserted ''and before the 6th day of April, 1999''.

3. In section 143:

(*a*) in subsection (2) after ''distribution made'' there shall be inserted ''before the 6th day of April, 1999,'',

(*b*) in subsection (5) after ''tax credit'' there shall be inserted '', if any,'', and

(*c*) in subsection (7) after ''50 per cent, and'' there shall be inserted '', where the distribution is made before the 6th day of April, 1999,''.

4. In section 145 in subsection (1) after ''relevant distribution')'' there shall be inserted ''made before the 6th day of April, 1999, being a distribution''.

5. in section 147 in subsection (5)(*a*) after ''recipient of a relevant distribution'' there shall be inserted ''made before the 6th day of April, 1999,''.

6. In section 150 in subsection (1) after ''distribution made'' there shall be inserted ''before the 6th day of April, 1999,''.

7. In section 152 in subsection (1)(*b*) before ''(whether'' there shall be inserted ''where the distribution is made before the 6th day of April, 1999,''. Sch.5

8. For section 156 there shall be substituted the following section:

''Franked investment income and franked payments.

156.—(1) Income of a company resident in the State which consists of a distribution made by another company resident in the State shall be referred to in the Corporation Tax Acts as 'franked investment income' of the company, and the amount of the franked investment income of such a company shall be—

(*a*) in a case where the company is entitled to a tax credit in respect of the distribution, an amount equal to the aggregate of the amount or value of the distribution and the amount of the credit, and

(*b*) in any other case, the amount or value of the distribution.

(2) A reference in the Corporation Tax Acts to 'a franked payment' in relation to a company resident in the State which makes a distribution shall be construed as a reference to—

(*a*) in a case where a recipient of the distribution is entitled to a tax credit in respect of the distribution, the sum of the amount or value of the distribution and the amount of the tax credit, and

(*b*) in any other case, the amount or value of the distribution,

and references to any accounting or other period in which a franked payment is made are references to the period in which the distribution in question is made.''.

9. In section 157 in subsection (1) after ''receives franked investment income'' there shall be inserted ''and the amount of that income is calculated in accordance with subsection (1)(*a*) of section 156''.

10. In section 158 in subsection (1) after ''receives franked investment income'' there shall be inserted ''and the amount of that income is calculated in accordance with subsection (1)(*a*) of section 156''.

11. In section 159 after ''this Chapter, where'' there shall be inserted ''before the 6th day of April, 1999,''.

Section 55.

SCHEDULE 6

Change in Rate of Corporation Tax: Further Provisions

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. In section 26(4)(*b*) there shall be substituted for ''31st day of December, 1998'', ''31st day of December, 1997''.

2. In section 78(3)(*c*)(ii) there shall be substituted for ''31st day of December, 1998'', ''31st day of December, 1997''.

3. In subsection (2) of section 448—

(*a*) in paragraph (*a*) there shall be substituted for ''twenty-six thirty-sixths'', ''twenty-two thirty-seconds'' as respects any accounting period beginning on or after the 1st day of January, 1998, and

(*b*) for paragraph (*b*) there shall be substituted the following paragraph:

''(*b*) Where a company which carries on a trade which consists of or includes the manufacture of goods claims and proves as respects a relevant accounting period (being an accounting period which falls wholly or partly into the period beginning on the 1st day of April, 1996, and ending on the 31st day of December, 1998) that during that accounting period any amount was receivable in respect of the sale in the course of the trade of goods, corporation tax payable by the company for that accounting period, in so far as it is referable to the income from the sale of those goods, shall be reduced—

(i) by twenty-eight thirty-eighths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the period beginning on the 1st day of January, 1996, and ending on the 31st day of March, 1997,

(ii) by twenty-six thirty-sixths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the period beginning on the 1st day of April, 1997, and ending on the 31st day of December, 1997, and

(iii) by twenty-two thirty-seconds, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 1998,

and the corporation tax referable to the income from the sale of those goods—

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(I) shall, for the purposes of subparagraph (i), be such an amount as bears to the part of the relevant corporation tax charged on profits which under section 26(3) are apportioned to the period beginning on the 1st day of January, 1996, and ending on the 31st day of March, 1997, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period, and

(II) shall, for the purposes of subparagraph (ii), be such an amount as bears to the part of the relevant corporation tax charged on profits which under section 26(3) are apportioned to the period beginning on the 1st day of April, 1997, and ending on the 31st day of December, 1997, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period, and

(III) shall, for the purposes of subparagraph (iii), be such an amount as bears to the part of the relevant corporation tax charged on profits which under section 26(3) are apportioned to the financial year 1998, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period.''.

4. In Schedule 32—

(*a*) in paragraph 5—

(i) in subparagraph (2)—

(I) for the definition of ''S'' in clause (i) there shall be substituted the following:

''S is—

(A) as respects accounting periods beginning before the 1st day of April, 1997, 38/28,

(B) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 36/26, and

(C) as respects accounting periods beginning on or after the 1st day of January, 1998, 32/22,'',

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(II) for the definition of ''S'' in clause (ii) there shall be substituted the following:

''S is—

(I) as respects accounting periods beginning before the 1st day of April, 1997, 10/28,

(II) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 10/26, and

(III) as respects accounting periods beginning on or after the 1st day of January, 1998, 10/22.'',

and

(ii) in subparagraph (3) for clause (*a*) there shall be substituted the following clause:

''(*a*) For the purposes of subparagraph (2)—

(i) where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods, and

(ii) where an accounting period, including a period treated under subclause (i) as an accounting period, begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and another part beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.'',

(*b*) in paragraph 6—

(i) in subparagraph (2) for the definition of ''S'' in clause (ii) there shall be substituted the following—

''S is—

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(*a*) as respects accounting periods beginning before the 1st day of April, 1997, 10/28,

(*b*) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 10/26, and

(*c*) as respects accounting periods beginning on or after the 1st day of January, 1998, 10/22.'',

and

(ii) in subparagraph (3) for clause (*a*) there shall be substituted the following clause:

''(*a*) For the purposes of subparagraph (2)—

(i) where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends and both parts shall be treated as if they were separate accounting periods, and

(ii) where an accounting period, including a period treated under subclause (i) as an accounting period, begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and another part beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.'',

(*c*) in paragraph 16—

(i) for clauses (*a*) and (*b*) of subparagraph (3) there shall be substituted the following clauses:

''(*a*) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent,

(*b*) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 21 per cent, and

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(*c*) as respects accounting periods beginning on or after the 1st day of January, 1998, 17 per cent;''

and

(ii) for subparagraph (5) there shall be substituted the following subparagraph:

''(5) For the purposes of this paragraph—

(*a*) where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods, and

(*b*) where an accounting period, including a period treated under clause (*a*) as an accounting period, begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and another part beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.'',

and

(*d*) in paragraph 18—

(i) for clause (*b*) of subparagraph (4) there shall be substituted the following clause:

''(*b*) Subject to clause (*c*), relief for an accounting period shall be an amount determined by the formula—

$$(A - B) - (C - D)$$

where—

A is the amount of corporation tax which, apart from paragraph 16, this paragraph and section 448, is chargeable for the accounting period,

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B is an amount determined by applying a rate equal to—

(*a*) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent,

(*b*) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 21 per cent, and

(*c*) as respects accounting periods beginning on or after the 1st day of January, 1998, 17 per cent,

to the amount of the company's income for the accounting period,

C is the amount of corporation tax which, apart from paragraph 16, this paragraph and section 448, would be chargeable for the accounting period if the amount of the company's income for the accounting period were reduced by the appropriate amount, and

D is an amount determined by applying a rate equal to—

(*a*) as respects accounting periods beginning before the 1st day of April, 1997, 23 per cent,

(*b*) as respects accounting periods beginning on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 21 per cent, and

(*c*) as respects accounting periods beginning on or after the 1st day of January, 1998, 17 per cent,

to the amount of the company's income for the accounting period as reduced by the appropriate amount.'',

and

(ii) in subparagraph (6) for clause (*a*) there shall be substituted the following clause:

''(*a*) For the purposes of this paragraph—

(i) where an accounting period begins before the 1st day of April, 1997, and ends on or after that day, it shall

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be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1997, and another part beginning on the 1st day of April, 1997, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods, and

(ii) where an accounting period, including a period treated under subclause (i) as an accounting period, begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and another part beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.''.

Section 94.

SCHEDULE 7

Rates of Excise Duty on Tobacco Products

Description of Product	Rate of Duty
Cigarettes … … … … …	£65.01 per thousand together with an amount equal to 17.53 per cent of the price at which the cigarettes are sold by retail
Cigars … … … … … …	£99.115 per kilogram
Fine-cut tobacco for the rolling of cigarettes …	£83.638 per kilogram
Other smoking tobacco … … …	£68.762 per kilogram

SCHEDULE 8

Section 125.

Stamp Duty Enactments Repealed

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
11 Geo. 4 & 1 Will. 4, c. 68.	Carriers Act, 1830.	In section 3 the words ‘‘, which receipt shall not be liable to any stamp duty’’.
14 & 15 Vict., c. 93.	Petty Sessions (Ireland) Act, 1851.	Section 40.
38 & 39 Vict., c. 82.	National School Teachers Residences (Ireland) Act, 1875.	Section 6.
54 & 55 Vict., c. 39.	Stamp Act, 1891.	Section 6; In section 7 (inserted by the Finance Act, 1984) the words ‘‘of an amount not exceeding 7p’’ and the words ‘‘not appropriated by any word or words on the face of them to any particular description of instrument’’; In section 8(1) the words ‘‘, or for any postal purpose,’’; In section 9(1)(*a*) the words ‘‘or uses for any postal purpose’’; Sections 10 and 23(3); In section 32 the words from ‘‘; and the expression ‘bill of exchange payable on demand’ includes—’’ to end of that section; In section 56 the words ‘‘or in perpetuity, or for any indefinite period not terminable with life’’ in subsection (2) and the whole of subsection (3); In section 77 the whole of subsections (3) and (4); Sections 83 and 84; In section 87(1) the words ‘‘, and a reconveyance, release, discharge, surrender, re-surrender, warrant to vacate, or renunciation of any such security,’’; Section 115; In the First Schedule, under the heading ‘‘GENERAL EXEMPTIONS FROM ALL STAMP DUTIES’’, the whole of paragraph (1)(iii); Second Schedule.

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Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
58 & 59 Vict., c. 16.	Finance Act, 1895.	Section 12.
61 & 62 Vict., c. 46.	Revenue Act, 1898.	Sections 7(4) and 10(3).
No. 28 of 1925.	Finance Act, 1925.	Section 47.
No. 25 of 1926.	Railways (Existing Officers and Servants) Act, 1926.	Section 6.
No. 27 of 1927.	Electricity (Supply) Act, 1927.	Section 86; In section 95 the words ‘‘, and also for the purposes of the exemption numbered 3 under the heading ‘Agreement or any memorandum of an agreement’ contained in the First Schedule to that Act’’.
No. 39 of 1934.	Agricultural Co-operative Societies (Debentures) Act, 1934.	Section 7(3).
No. 22 of 1942.	Central Bank Act, 1942.	Section 15(3).
No. 21 of 1944.	Transport Act, 1944.	In section 58 the whole of subsections (1) and (3).
No. 4 of 1945.	Tuberculosis (Establishment of Sanatoria) Act, 1945.	Section 3.
No. 31 of 1945.	National Stud Act, 1945.	In section 5 the whole of subsections (1) and (2).
No. 33 of 1945.	Johnstown Castle Agricultural College Act, 1945.	Section 9.
No. 10 of 1946.	Turf Development Act, 1946.	Section 68.
No. 33 of 1949.	Irish News Agency Act, 1949.	In section 4 the whole of subsections (1) and (2).
No. 12 of 1950.	Transport Act, 1950.	In section 67 the whole of subsections (1) and (3).
No. 11 of 1953.	Grass Meal (Production) Act, 1953.	Section 4(1).
No. 10 of 1954.	Consular Conventions Act, 1954.	Section 10.
No. 5 of 1955.	Tourist Traffic Act, 1955.	Section 15.
No. 24 of 1957.	Scholarship Exchange (Ireland and the United States of America) Act, 1957.	Section 17.
No. 30 of 1959.	Johnstown Castle Agricultural College (Amendment) Act, 1959.	Section 11.
No. 36 of 1959.	Shannon Free Airport Development Company Limited Act, 1959.	Section 7.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 8 of 1962.	State Lands (Workhouses) Act, 1962.	Section 2(6).
No. 32 of 1963.	National Building Agency Limited Act, 1963.	Section 5.
No. 33 of 1963.	Companies Act, 1963.	Section 337(2).
No. 4 of 1966.	Air Companies Act, 1966.	Section 19.
No. 8 of 1966.	National Bank Transfer Act, 1966.	Section 7.
No. 17 of 1966.	Finance Act, 1966.	Section 20.
No. 21 of 1969.	Finance Act, 1969.	Subsections (2) (inserted by the Finance Act, 1976) and (2A) (inserted by the Finance Act, 1981) of section 49; In paragraph (*a*) of subsection (2B) (inserted by the Finance Act, 1996) of section 49 the words ''Notwithstanding subsections (2) and (2A) of this section,'' and ''(apart from the said subsections (2) and (2A))''.
No. 4 of 1970.	Nítrigin Éireann Teoranta Act, 1970.	Section 8.
No. 14 of 1971.	Transport (Miscellaneous Provisions) Act, 1971.	Section 19.
No. 21 of 1973.	Dairy Produce (Miscellaneous Provisions) Act, 1973.	Section 3(6).
No. 27 of 1976.	Family Home Protection Act, 1976.	In section 14 the words ''stamp duty,''.
No. 30 of 1976.	Gas Act, 1976.	Section 35(8).
No. 4 of 1978.	Medical Practitioners Act, 1978.	Section 7(8).
No. 32 of 1981.	Youth Employment Agency Act, 1981.	Section 29(1).
No. 11 of 1984.	Wool Marketing Act, 1984.	Section 3(8).
No. 9 of 1985.	Dentists Act, 1985.	Section 7(8).
No. 18 of 1985.	Nurses Act, 1985.	Section 7(8).
No. 15 of 1987.	Labour Services Act, 1987.	Section 27.
No. 34 of 1987.	Dublin Transport Authority (Dissolution) Act, 1987.	Section 6.
No. 18 of 1988.	Agriculture (Research, Training and Advice) Act, 1988.	Section 29.

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Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 28 of 1988.	Housing Act, 1988.	Section 4(2)(*b*).
No. 9 of 1989.	Bord na gCapall (Dissolution) Act, 1989.	Section 2(8).
No. 10 of 1990.	Finance Act, 1990.	In section 114 the words ''In addition to the provisions of section 14 of the Family Home Protection Act, 1976 (which relates to exemption from stamp duty and certain fees on creation of a joint tenancy in a family home)''.
No. 31 of 1990.	Fóir Teoranta (Dissolution) Act, 1990.	Section 6.
No. 13 of 1991.	Finance Act, 1991.	Section 104(3)(*a*) (inserted by the Finance Act, 1992).
No. 30 of 1991.	Industrial Development (Amendment) Act, 1991.	Section 6.
No. 9 of 1992.	Finance Act, 1992.	In section 212(2)(*a*) the words ''or section 14 of the Family Home Protection Act, 1976,''.
No. 15 of 1992.	Dublin Institute of Technology Act, 1992.	Section 19(7).
No. 16 of 1992.	Regional Technical Colleges Act, 1992.	Section 18(7).
No. 19 of 1993.	Industrial Development Act, 1993.	Section 17.
No. 18 of 1994.	Irish Horseracing Industry Act, 1994.	Section 76.
No. 25 of 1994.	Milk (Regulation of Supply) Act, 1994.	Section 3(8).
No. 28 of 1995.	Industrial Development Act, 1995.	Section 4(7).
No. 35 of 1995.	Energy (Miscellaneous Provisions) Act, 1995.	Section 14(5).

SCHEDULE 9

Section 136.

Post-Consolidation Amendments

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. In section 82(3), for ''subsection (1)'' there shall be substituted ''subsection (2)''.

2. In section 109(3), for ''section 83 or 709'' there shall be substituted ''section 83 or 707''.

3. In section 128(8), after ''did not include the value of'' there shall be inserted ''the right assigned or released but did include the amount or value of''.

4. In section 140(4)(*b*), for ''Subsection (2)'' there shall be substituted ''Subsection (3)''.

5. In section 279(1), the words '' 'expenditure incurred on the construction of a building or structure' excludes any expenditure within the meaning of section 270(2);'' shall be deleted.

6. In section 346(7)(*b*)(ii), for ''first sale'' there shall be substituted ''first purchase''.

7. In section 950(1), in the definition of ''specified provisions'' for ''section 888(1)'' there shall be substituted ''section 888(2)''.