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*Number 3 of 2000*

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**FINANCE ACT, 2000**

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Capital Acquisitions Tax Act, 1976	1976, No. 8
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Companies Act, 1963	1963, No. 33
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Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Acts, 1963 to 1999	
National Building Agency Limited Act, 1963	1963, No. 32
National Cultural Institutions Act, 1997	1997, No. 11
National Treasury Management Agency Act, 1990	1990, No. 18
Referendum Act, 1998	1998, No. 1
Regional Technical Colleges Act, 1992	1992, No. 16
Registration of Clubs (Ireland) Act, 1904	4 Edw. 7, c.9
Registration of Business Names Act, 1963	1963, No. 30
Road Transport Act, 1932	1932, No. 2
Social Welfare (Consolidation) Act, 1993	1993, No. 27
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Temporary Holding Fund for Superannuation Liabilities Act, 1999	1999, No. 33
Unit Trusts Act, 1990	1990, No. 37
Urban Renewal Act, 1998	1998, No. 27
Value-Added Tax Act, 1972	1972, No. 22
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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. [23rd March, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

*Interpretation*

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

Chapter 2

*Income Tax*

**2.**—Section 188 of the Principal Act is amended, as respects the year of assessment 2000-2001 and subsequent years of assessment, by the substitution of the following for subsection (2): Amendment of section 188 (age exemption and associated marginal relief) of Principal Act.

“(2) In this section, ‘the specified amount’ means, subject to section 187(2)—

(a) in the case of an individual referred to in paragraph (a) of the definition of ‘specified amount’ in section 461(1) (inserted by the Finance Act, 1999), £15,000, and

(b) in any other case, £7,500.’.

**3.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended as follows— Alteration of rates of income tax.

- (a) in section 15, by the substitution of the following for subsection (2) and the Table to the section:

“(2) Where a person who is charged to income tax for any year of assessment is an individual (other than an individual acting in a fiduciary or representative capacity), such individual shall, notwithstanding anything in the Income Tax Acts but subject to section 16(2), be charged to tax on such individual’s taxable income—

- (a) in a case in which such individual is assessed to tax otherwise than in accordance with section 1017 and is not an individual referred to in paragraph (b), at the rates specified in Part 1 of the Table to this section, or
- (b) in a case in which the individual is assessed to tax otherwise than in accordance with section 1017 and is entitled to a reduction of tax provided for in section 462, at the rates specified in Part 2 of the Table to this section, or
- (c) subject to subsections (3) and (5), in a case in which such individual is assessed to tax in accordance with section 1017, at the rates specified in Part 3 of the Table to this section,

and the rates in each Part of that Table shall be known respectively by the description specified in column (3) in each such Part opposite the mention of the rate or rates, as the case may be, in column (2) of that Part.

- (3) Subject to subsections (4) and (5)—

- (a) where an individual is charged to tax for a year of assessment in accordance with section 1017, and
- (b) both the individual and his or her spouse are each in receipt of income in respect of which the individual is chargeable to tax in accordance with that section,

the part of his or her taxable income chargeable to tax at the standard rate specified in column (1) of Part 3 of the Table to this section shall be increased by an amount which is the lesser of—

- (i) £6,000, and
- (ii) the specified income of the individual or the specified income of the individual’s spouse, whichever is the lesser.

(4) For the purposes of subsection (3), ‘specified income’ means total income after deducting from such income any deduction attributable to a particular source of income.

(5) Where all or any part of an increase under subsection (3) in the amount of an individual’s taxable income

chargeable to income tax at the standard rate is attributable to emoluments from which tax is deductible in accordance with the provisions of Chapter 4 of Part 42 and any regulations made thereunder, then, the full amount of the increase, or that part of the increase, as may be appropriate in the circumstances, shall only be used in accordance with the provisions of that Chapter and those regulations in calculating the amount of tax to be deducted from those emoluments. Pt.1 S.3

TABLE

## PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £17,000	22 per cent	the standard rate
The remainder	44 per cent	the higher rate

## PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £20,150	22 per cent	the standard rate
The remainder	44 per cent	the higher rate

## PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £28,000	22 per cent	the standard rate
The remainder	44 per cent	the higher rate

”

and

(b) in section 1024—

(i) by the substitution of the following for paragraph (c) of subsection (2):

“(c) Subject to subsection (4), Part 1 of the Table to section 15 shall apply to each of the spouses concerned.”,

and

(ii) by the substitution of the following for subsection (4):

“(4) Where the part of the taxable income of a spouse chargeable to tax in accordance with subsection (2)(c) at the standard rate is less than that of the other spouse and is less than the part of taxable income specified in column (1) of Part 1 of the Table to section 15 (in this subsection referred to as the ‘appropriate part’) in respect of which the first-mentioned spouse is so chargeable to tax at that rate, the part of taxable income of the other spouse which by virtue of subsection (2)(c) is to be charged to tax at the standard rate shall be increased, to an amount not exceeding the part of taxable income specified in column (1) of Part 3 of the Table to section 15 in

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respect of which an individual to whom that Part applies is so chargeable at that rate, by the amount by which the taxable income of the first-mentioned spouse chargeable to tax at the standard rate is less than the appropriate part.”.

Amendment of section 461 (standard rated personal allowances) of Principal Act.

**4.**—Section 461 (inserted by the Finance Act, 1999) of the Principal Act is amended, as respects the year of assessment 2000-2001 and subsequent years of assessment, by the substitution in the definition of “the specified amount” in subsection (1) of “£9,400” for “£8,400” and “£4,700” for “£4,200”, and the said definition, as so amended, is set out in the Table to this section.

## TABLE

“the specified amount”, in relation to an individual for a year of assessment, means—

(a) £9,400, in a case in which the claimant is—

(i) a married person who—

(I) is assessed to tax for the year of assessment in accordance with the provisions of section 1017, or

(II) proves that his or her spouse is not living with him or her but is wholly or mainly maintained by him or her for the year of assessment and that the claimant is not entitled, in computing his or her income for tax purposes for that year, to make any deduction in respect of the sums paid by him or her for the maintenance of his or her spouse,

or

(ii) a widowed person, other than a person to whom subparagraph (i) applies, whose spouse has died in the year of assessment,

and

(b) £4,700 in the case of any other claimant.

Additional standard rated allowance for certain widowed persons.

**5.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended—

(a) by the substitution of the following for section 461A:

“Additional standard rated allowance for certain widowed persons.

461A.—(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;

‘specified amount’, means £1,000.

(2) This section applies to an individual being a widowed person, other than—

(a) a person referred to in paragraph (a) of the definition of ‘the specified amount’ in section 461(1) (as amended by the *Finance Act, 2000*), or

(b) a person entitled to a reduction of tax under section 462.

(3) Where for any year of assessment Pt.1 S.5  
 an individual to whom this section applies  
 is entitled to a reduction of tax under  
 section 461, the income tax to be charged  
 on the individual, other than in accord-  
 ance with section 16(2), for a year of  
 assessment shall be further reduced by an  
 amount which is the lesser of—

(a) an amount equal to the appropri-  
 ate percentage of the specified  
 amount, or

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

and

(b) in the Table to section 458—

(i) by the deletion of “Section 461A” from Part 1, and

(ii) by the insertion, in Part 2, after “Section 461(2)” of  
 “Section 461A”.

**6.**—As respects the year of assessment 2000-2001 and subsequent  
 years of assessment, the Principal Act is amended—

Widowed parents  
 and other single  
 parents: standard  
 rated allowance.

(a) in section 462, by the substitution in subsection (1) of  
 “£4,700” for “£1,050” in the definition of “the specified  
 amount”,

(b) by the deletion of section 462A (inserted by the Finance  
 Act, 1999), and

(c) in the Table to section 458, by the deletion of “Section  
 462A” from Part 1.

**7.**—As respects the year of assessment 2000-2001 and subsequent  
 years of assessment, the Principal Act is amended—

Special relief for  
 widowed parent  
 following death of  
 spouse.

(a) by the substitution of the following for section 463:

“Special relief  
 for widowed  
 parent following  
 death of spouse.

463.—(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;

‘claimant’ means an individual whose  
 spouse dies in a year of assessment;

‘qualifying child’, in relation to a claimant  
 and a year of assessment, has the same  
 meaning as in section 462, and the ques-  
 tion 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,

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and subsections (3), (4) and (6) of that section shall apply accordingly;

‘specified amount’, in relation to a claimant for each of the 5 years of assessment immediately following the year of assessment in which the claimant’s spouse dies, means—

- (a) for the first of those 5 years, £10,000,
- (b) for the second of those 5 years, £8,000,
- (c) for the third of those 5 years, £6,000,
- (d) for the fourth of those 5 years, £4,000, and
- (e) for the fifth of those 5 years, £2,000.

(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 income tax to be charged on the claimant, other than in accordance with section 16(2), for that year of assessment shall be reduced by an amount which is the lesser of—

- (i) an amount equal to the appropriate percentage of the specified amount in relation to the claimant for that year, or
- (ii) the amount which reduces that income tax to nil,

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.”,

and

(b) in the Table to section 458—

- (i) by the deletion of “Section 463” from Part 1, and



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- (ii) by the insertion, in Part 2, after “Section 462” of Pt.1 S.7  
“Section 463”.

**8.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended—

(a) by the substitution of the following for section 464:

“Age allowance.

464.—(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;

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

(a) £1,600, in a case where the individual is a married person whose spouse is living with him or her and who is assessed to tax in accordance with section 1017, and

(b) £800, in any other case.

(2) Where for any year of assessment an individual is entitled to a reduction of income tax under section 461 and proves that at any time during that year of assessment—

(a) the individual, or

(b) in the case of a married person whose spouse is living with him or her and who is assessed to tax in accordance with section 1017, either the individual or the individual’s spouse,

was of the age of 65 years or over, the income tax to be charged on the individual, other than in accordance with section 16(2), for that year of assessment shall be reduced by a further amount which is the lesser of—

(i) an amount equal to the appropriate percentage of the specified amount in relation to the individual for that year, or

(ii) the amount which reduces that income tax to nil.”,

and

(b) in the Table to section 458—

(i) by the deletion of “Section 464” from Part 1, and

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- (ii) by the insertion, in Part 2, after “Section 463” (inserted by this Act) of “Section 464”.

Incapacitated children.

**9.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended—

(a) by the substitution of the following for section 465:

“Incapacitated children. 465.—(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;

‘qualifying child’, in relation to an individual, means a child of the individual who—

(a) is under the age of 18 years and is permanently incapacitated by reason of mental or physical infirmity, or

(b) if over the age of 18 years at the commencement of the year of assessment, is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and had become so permanently incapacitated before he or she had attained the age of 21 years or had become so permanently incapacitated after attaining the age of 21 years but while he or she had been in receipt of full-time instruction at any university, college, school or other educational establishment;

‘specified amount’, in relation to a qualifying child for a year of assessment, means £1,600.

(2) Where an individual proves that he or she has living at any time during a year of assessment a qualifying child, the income tax to be charged on the individual, other than in accordance with section 16(2), for that year of assessment shall, in respect of each such child, be reduced by an amount which is the lesser of—

(a) an amount equal to the appropriate percentage of the specified amount in relation to the child, or

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

(3) (a) A child under the age of 18 years shall be regarded as permanently incapacitated by reason of mental

or physical infirmity only if the infirmity is such that there would be a reasonable expectation that if the child were over the age of 18 years the child would be incapacitated from maintaining himself or herself.

(b) In the case of a child referred to in paragraph (b) of the definition of 'qualifying child' in subsection (1), the specified amount shall be £1,600, or the amount expended by the individual in the year of assessment on the maintenance of the child, whichever is the lesser.

(c) Any relief under this section shall be in substitution for and not in addition to any reduction of tax to which the individual might be entitled in respect of the same child under section 466.

(4) Where an individual proves for the year of assessment—

(a) that he or she has the custody of and maintains at his or her own expense any child who, but for the fact that that child is not a child of the individual, would be a qualifying child referred to in subsection (1), and

(b) that neither the individual nor any other individual is entitled to relief in respect of the same child under subsection (2) or under any other provision of this Part, or, if any other individual is entitled to such relief, that such other individual has relinquished his or her claim to that relief,

the individual shall be entitled to the same relief under this section in respect of the child as if the child were a child of the individual.

(5) (a) The reference in paragraph (b) of the definition of 'qualifying child' in subsection (1) to a child receiving full-time instruction at an educational establishment shall include a reference to a child undergoing training by any person (in this subsection referred to as 'the employer') for any trade or profession in such circumstances that the child is required to devote the whole of his or her

time to the training for a period of not less than 2 years.

(b) For the purpose of a claim in respect of a child undergoing training, the inspector may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Revenue Commissioners.

(6) (a) Where in any year of assessment a qualifying child is entitled in his or her own right to an income exceeding £2,100 in that year, the specified amount shall be reduced by the amount of the excess up to the limit of the specified amount.

(b) In calculating the income of the child for the purposes of paragraph (a), no account shall be taken of any income to which the child is entitled as the holder of a scholarship, bursary, or other similar educational endowment.

(7) Where any question arises as to whether any person is entitled to relief under this section in respect of a child over the age of 21 years as being a child who had become permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself after attaining that age but while in receipt of full-time instruction referred to in this section, the Revenue Commissioners may consult the Minister for Education and Science.

(8) Where for any year of assessment 2 or more individuals are or would but for this subsection be entitled under this section to relief in respect of the same child, the following provisions shall apply:

(a) only one specified amount under this section shall be allowed in respect of the child;

(b) where the child is maintained by one individual only, that individual only shall be entitled to claim a reduction of tax under this section;

(c) where the child is maintained jointly by two or more of the individuals, each of those individuals shall be entitled to claim a reduction of tax under this section by reference to that portion of the specified amount as is proportionate

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to the amount expended by him Pt.1 S.9  
or her on the maintenance of the  
child;

(d) in ascertaining for the purposes of  
this subsection whether an indi-  
vidual maintains a child and, if so,  
to what extent, any payment  
made by the 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 pay-  
ment for or towards the mainten-  
ance of the child.”,

and

(b) in the Table to section 458—

(i) by the deletion of “Section 465” from Part 1, and

(ii) by the insertion, in Part 2, after “Section 464”  
(inserted by this Act) of “Section 465”.

**10.**—As respects the year of assessment 2000-2001 and subsequent Dependent relative.  
years of assessment, the Principal Act is amended—

(a) by the substitution of the following for section 466:

“Dependent  
relative.

466.—(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;

‘dependent relative’, in relation to a claim-  
ant, means—

(a) a relative of the claimant, or of the  
claimant’s spouse, incapacitated  
by old age or infirmity from  
maintaining himself or herself,

(b) the widowed father or widowed  
mother of the claimant or of the  
claimant’s spouse, whether inca-  
pacitated or not, or

(c) a son or daughter of the claimant  
who resides with the claimant  
and on whose services the  
claimant, by reason of old age  
or infirmity, is compelled to  
depend;

‘specified amount’, in relation to a depen-  
dent relative for a year of assessment,  
means £220 reduced by the amount, if any,

by which the dependent relative's total income from all sources for the year exceeds the specified limit;

'specified limit' means the aggregate of the payments to which an individual is entitled in a year of assessment in respect of an old age (contributory) pension at the maximum rate under the Social Welfare (Consolidation) Act, 1993, if throughout the year of assessment such individual is entitled to such a pension and—

- (a) has no adult dependant or qualified children (within the meaning, in each case, of that Act),
- (b) is over the age of 80 years (or such other age as may be specified in that Act for the time being in place of the age of 80 years), and
- (c) is living alone.

(2) Where for any year of assessment a claimant proves that he or she maintains at his or her own expense a dependent relative, the income tax to be charged on the claimant, other than in accordance with section 16(2), for that year of assessment shall, in respect of each such dependent relative, be reduced by an amount which is the lesser of—

- (a) an amount equal to the appropriate percentage of the specified amount in relation to the dependent relative for that year, or
- (b) the amount which reduces that income tax to nil.

(3) Where for any year of assessment 2 or more individuals jointly maintain a dependent relative, the specified amount in relation to that dependent relative shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that dependent relative.”,

and

(b) in the Table to section 458—

- (i) by the deletion of “Section 466” from Part 1, and
- (ii) by the insertion, in Part 2, after “Section 465” (inserted by this Act) of “Section 466”.

**11.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended—

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Relief for blind persons.

(a) by the substitution of the following for section 468:

“Relief for blind persons.

468.—(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;

‘blind person’ means a person whose central visual acuity does not exceed 6/60 in the better eye with correcting lenses, or whose central visual acuity exceeds 6/60 in the better eye or in both eyes but is accompanied by a limitation in the fields of vision that is such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

‘specified amount’, in relation to an individual to whom this section applies for a year of assessment, means—

- (a) £3,000, in a case where either the individual or his or her spouse is a blind person, or
- (b) £6,000, in a case where the individual and his or her spouse are both blind persons.

(2) This section applies to an individual for a year of assessment where the individual proves that—

- (a) he or she was for the whole or any part of the year of assessment a blind person, or
- (b) where he or she is assessed to tax in accordance with section 1017, either or both he or she and his or her spouse was for the whole or any part of the year of assessment a blind person.

(3) The income tax to be charged on an individual to whom this section applies, other than in accordance with section 16(2), for a year of assessment shall be reduced by an amount which is the lesser of—

- (a) an amount equal to the appropriate percentage of the specified amount in relation to the individual for that year, or
- (b) the amount which reduces that income tax to nil.”,

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and

(b) in the Table to section 458—

(i) by the deletion of “Section 468” from Part 1, and

(ii) by the insertion, in Part 2, after “Section 466A” (inserted by this Act) of “Section 468”.

Home carer's allowance.

**12.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, the Principal Act is amended—

(a) in Chapter 1 of Part 15 by the insertion of the following section after section 466:

“Home carer's allowance.

466A.—(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;

‘dependent person’, in relation to a qualifying claimant, means a person (other than the spouse of the qualifying claimant) who, subject to subsection (3), resides with that qualifying claimant and who is—

(a) a child in respect of whom either the qualifying claimant or his or her spouse is, at any time during a year of assessment, in receipt of child benefit under Part IV of the Social Welfare (Consolidation) Act, 1993, or

(b) an individual who, at any time during a year of assessment, is of the age of 65 years or over, or

(c) an individual who is permanently incapacitated by reason of mental or physical infirmity;

‘qualifying claimant’, in relation to a year of assessment, means an individual—

(a) who is assessed to tax for that year in accordance with section 1017, and

(b) who, or whose spouse, (in this section referred to as the ‘carer spouse’) is engaged during that year in caring for one or more dependent persons;



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'relative', in relation to a qualifying claimant, includes a relation by marriage and a person in respect of whom the qualifying claimant is or was the legal guardian; Pt.1 S.12

'specified amount' means, subject to subsections (6) and (7), £3,000.

(2) Where for any year of assessment an individual proves that he or she is a qualifying claimant, the income tax to be charged on the individual, other than in accordance with section 16(2), for that year of assessment shall be reduced by an amount which is the lesser of—

- (a) an amount equal to the appropriate percentage of the specified amount, or
- (b) the amount which reduces that income tax to nil.

(3) For the purposes of this section—

(a) a dependent person in relation to a qualifying claimant who is a relative of that claimant or the claimant's spouse shall be regarded as residing with the qualifying claimant if—

- (i) the relative lives in close proximity to the qualifying claimant, and
- (ii) a direct system of communication exists between the qualifying claimant's residence and the residence of the relative,

and

(b) a qualifying claimant and a relative shall be regarded as living in close proximity if they reside—

- (i) next door in adjacent residences, or
- (ii) on the same property, or
- (iii) within 2 kilometres of each other.

(4) A qualifying claimant shall be entitled to only one reduction of tax under subsection (2) for any year of assessment irrespective of the number of dependent persons resident with the qualifying claimant in that year.

(5) Relief under this section in respect of a dependent person shall be granted to one and only one qualifying claimant being the person with whom that dependent person normally resides or, where subsection (3) applies, the person who, or whose spouse, normally cares for the dependent person.

(6) (a) Where in any year of assessment the carer spouse is entitled in his or her own right to an income exceeding £4,000 in that year, the specified amount shall be reduced by an amount which is equal to 3 times the amount of that excess.

(b) For the purposes of paragraph (a), no account shall be taken of any Carer's Allowance payable under Chapter 10 of Part III of the Social Welfare (Consolidation) Act, 1993.

(7) (a) Notwithstanding subsection (6) but subject to the other provisions of this section including this subsection, relief may be granted for a year of assessment where the claimant was entitled to relief under this section for the immediately preceding year of assessment.

(b) Where relief is to be granted for a year of assessment by virtue of paragraph (a), it shall not exceed the amount of relief granted in the immediately preceding year of assessment.

(c) Relief shall not be granted for a year of assessment by virtue of paragraph (a) if it was so granted for the immediately preceding year of assessment.

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(8) Where for any year of assessment relief is granted to an individual under this section, the individual shall not also be entitled to the benefit of the provision contained in section 15(3) but the individual may elect by notice in writing to the inspector to have benefit under the said section 15(3) granted instead of the relief granted under this section.”, Pt.1 S.12

and

(b) in the Table to section 458, by the insertion, in Part 2, after “Section 466” (inserted by this Act) of “Section 466A”.

**13.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, section 473 of the Principal Act is amended— Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.

(a) in subsection (1)—

(i) by the insertion of the following definition before the definition of “residential premises”:

“‘appropriate percentage’, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;”, and

(ii) by the insertion of the following definition before the definition of “tenancy”:

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

(a) in the case of a married person assessed to tax in accordance with section 1017, £1,500; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘the specified limit’ means £4,000,

(b) in the case of a widowed person, £1,125; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘the specified limit’ means £3,000, and

(c) in any other case, £750; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘the specified limit’ means £2,000;”,

(b) by the substitution of the following subsection for subsection (2):

“(2) Where an individual (in this section referred to as the ‘claimant’) proves that in the year of assessment he or she has made a payment on account of rent in respect of residential premises which, during the period in respect of which the payment was made, was his or her main residence, the income tax to be charged on the claimant, other than in accordance with section 16(2), for that year of assessment shall be reduced by an amount which is the least of—

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- (a) the amount equal to the appropriate percentage of the aggregate of such payments proved to be so made,
- (b) the appropriate percentage of the specified limit in relation to the claimant for the year of assessment, and
- (c) the amount that reduces that income tax to nil.”,
- (c) by the substitution of the following subsection for subsection (3):
- “(3) For the purposes of this section, where a claimant is a married person assessed to tax for the year of assessment in accordance with section 1017, any payments made by the claimant’s spouse, in respect of which that spouse would have been entitled to relief under this section if he or she 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 claimant.”,
- (d) by the substitution of the following subsection for subsection (10):
- “(10) Any relief under this section shall be in substitution for and not in addition to any relief to which the claimant might be entitled in respect of the same payment under any other provision of the Income Tax Acts.”,
- and
- (e) in the Table to section 458—
- (i) by the deletion of “Section 473(2)” from Part 1, and
- (ii) by the substitution in Part 2 of “Section 473” for “Section 473(3)”.

Standard rating of allowances: consequential provisions.

**14.**—The provisions of the Principal Act referred to in *Schedule 1* are amended as specified in that Schedule.

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

**15.**—Section 122 of the Principal Act is amended, as respects the year 2000-2001 and subsequent years of assessment, by the substitution in the definition of “the specified rate” in paragraph (a) of subsection (1) of “4 per cent” for “6 per cent” in both places where it occurs, and the said definition, as so amended, is set out in the Table to this section.

#### TABLE

“the specified rate”, in relation to a preferential loan, means—

- (i) in a case where—
- (I) the interest paid on the preferential loan qualifies for relief under section 244, or

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- (II) if no interest is paid on the preferential loan, the interest which would have been paid on that loan (if interest had been payable) would have so qualified, Pt.1 S.15

the rate of 4 per cent per annum or such other rate (if any) prescribed by the Minister for Finance by regulations,

- (ii) in a case where—

(I) the preferential loan is made to an employee by an employer,

- (II) the making of loans for the purposes of purchasing a dwelling house for occupation by the borrower as a residence, for a stated term of years at a rate of interest which does not vary for the duration of the loan, forms part of the trade of the employer, and

- (III) the rate of interest at which, in the course of the employer's trade at the time the preferential loan is or was made, the employer makes or made loans at arm's length to persons, other than employees, for the purposes of purchasing a dwelling house for occupation by the borrower as a residence is less than 4 per cent per annum or such other rate (if any) prescribed by the Minister for Finance by regulations,

the first-mentioned rate in subparagraph (III), or

- (iii) in any other case, the rate of 10 per cent per annum or such other rate (if any) prescribed by the Minister for Finance by regulations.

**16.**—Section 126 of the Principal Act is amended by the substitution, in subsection (8), of the following for paragraph (b) (inserted by the Finance Act, 1999):

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

“(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 in relation to unemployment benefit paid or payable in the period commencing on 6 April 1997, and ending on 5 April 2001, to a person employed in short-time employment.”.

**17.**—As respects the year of assessment 2000-2001 and subsequent years of assessment, section 244 of the Principal Act is amended—

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

(a) in subsection (1)—

- (i) by the substitution of the following for the definition of “dependent relative”:

“ ‘dependent relative’, in relation to an individual, means any of the persons mentioned in paragraph (a) or (b) of the definition of ‘dependent relative’ in section 466(1) in respect of whom the individual is entitled to a reduction of tax under that section;”.

- (ii) by the substitution of the following for the definition of “relievable interest”:

“ ‘relievable interest’, in relation to an individual and a year of assessment, means—

- (i) in the case of—

(I) an individual assessed to tax for the year of assessment in accordance with section 1017, or

(II) a widowed individual,

the amount of qualifying interest paid by the individual in the year of assessment or, if less, £4,000,

(ii) in the case of any other individual, the amount of qualifying interest paid by the individual in the year of assessment or, if less, £2,000,

but, notwithstanding the preceding provisions of this definition and subject to paragraph (c), as respects the first 5 years of assessment for which there is an entitlement to relief under this section in respect of a qualifying loan, 'relievable interest', in relation to an individual and a year of assessment, shall mean—

(iii) in the case of—

(I) an individual assessed to tax for the year of assessment in accordance with section 1017, or

(II) a widowed individual,

the amount of qualifying interest paid by the individual in the year of assessment or, if less, £5,000,

(iv) in the case of any other individual, the amount of qualifying interest paid by the individual in the year of assessment or, if less, £2,500;”,

and

(iii) by the substitution of the following for paragraph (c):

“(c) The number of years of assessment for which the amount of relievable interest is to be determined by reference to subparagraph (iii) or (iv) of the definition of 'relievable interest' shall be reduced by one year of assessment for each year of assessment in which an individual was entitled to relief for a year of assessment before the year 1997-1998 under section 76(1) or 496 of, or paragraph 1(2) of Part III of Schedule 6 to, the Income Tax Act, 1967.”,

and

(b) in subsection (3), by the substitution of the following for paragraph (a):

“(a) Where the amount of relievable interest is determined by reference to subparagraph (iii) or (iv) of the definition of 'relievable interest', then, notwithstanding any other provision of the Tax Acts, in the case of an individual who has elected or

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could be deemed to have duly elected to be assessed to tax for the year of assessment in accordance with section 1017, where either—

- (i) the individual, or
- (ii) the individual's spouse,

was previously entitled to relief under this section or under section 76(1) or 496 of, or paragraph 1(2) of Part III of Schedule 6 to, the Income Tax Act, 1967, and the other person was not so entitled—

- (I) the relief to be given under this section, other than that part of the relief (in this subsection referred to as 'the additional relief') which is represented by the difference between the relievable interest and the amount which would have been the amount of the relievable interest if this had been determined by reference to subparagraph (i) or (ii) of that definition, shall be treated as given in equal proportions to the individual and that individual's spouse for that year of assessment, and
- (II) the additional relief shall be reduced by 50 per cent and the additional relief, as so reduced, shall be given only to the person who was not previously entitled to relief under this section or under section 76(1) or 496 of, or paragraph 1(2) of Part III of Schedule 6 to, the Income Tax Act, 1967."

**18.—(1)** Section 202 of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution of the following for the definition of "specified amount":

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

" 'specified amount', in relation to a participating employee, means—

- (a) in a case where the basic pay of the employee is subject to a reduction of at least 10 per cent but not exceeding 15 per cent, £6,000 together with £200 for each complete year of service (subject to a maximum of 20 years), up to the relevant date, of the employee in the service of the qualifying company,
- (b) in a case where the basic pay of the employee is subject to a reduction exceeding 15 per cent but not exceeding 20 per cent, £6,000 together with £500 for each complete year of service (subject to a maximum of 20 years), up to the relevant date, of the employee in the service of the qualifying company, and
- (c) in a case where the basic pay of the employee is subject to a reduction exceeding 20 per cent, £8,000 together with £600 for each complete year of service (subject to a maximum of 20 years), up to the relevant date, of the employee in the service of the qualifying company."

and

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(b) in subsection (2), by the substitution in paragraph (g) of “6 April 2003” for “the 6th day of April, 2000”.

(2) Paragraph (a) of subsection (1) shall apply and have effect as respects payments made under a relevant agreement (within the meaning of section 202 of the Principal Act) the relevant date (within that meaning) of which is after 20 July 1999.

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

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

(a) in section 488(1) by the insertion of the following after the definition of “eligible shares”:

“ ‘Exchange Axess’ means the company incorporated under the Companies Acts, 1963 to 1999, on 19 July 1999 as Exchange Axess Limited;”

(b) in section 491 by the substitution, in subsection (4), of the following for the words after “by reason only of the fact” to the end of the subsection:

“that—

(I) a subscription for eligible shares in both companies is made by a person or persons having the management of an investment fund designated under section 508 as nominee for any person or group or groups of persons, or

(II) both companies hold shares or securities in, or have made loans to, Exchange Axess or carry on in limited partnership with Exchange Axess such qualifying trading operations as are referred to in section 496(2)(a)(iv).”

and

(c) in section 495(3)(a)(ii)—

(i) by the substitution, in clause (I), of “company,” for “company, or”,

(ii) by the substitution, in clause (II), of “trades, or” for “trades.”, and

(iii) by the insertion, after clause (II), of the following:

“(III) both the holding of shares or securities in, or the making of loans to, Exchange Axess, and the carrying on in limited partnership with Exchange Axess of such qualifying trading operations as are referred to in section 496(2)(a)(iv).”

(2) Subsection (1) shall apply and have effect as on and from 1 May 1998.

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

**20.—**Schedule 13 to the Principal Act is amended by—

(a) the deletion of paragraphs 43 and 85,

(b) the substitution of the following for paragraph 92:



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“92. A Referendum Commission established by order made under section 2(1) of the Referendum Act, 1998.”, Pt.1 S.20

and

(c) the addition of the following after paragraph 95:

“96. The Central Fisheries Board.

97. A regional fisheries board established by virtue of an order made under section 10 of the Fisheries Act, 1980.

98. A County Enterprise Board (being a board referred to in the Schedule to the Industrial Development Act, 1995).

99. Western Development Commission.

100. The Equality Authority.

101. Commissioners of Charitable Donations and Bequests for Ireland.

102. Commission for Electricity Regulation.

103. A regional authority established by an order made under section 43(1) of the Local Government Act, 1991.”.

**21.—(1)** As respects the year of assessment 2000-2001 and subsequent years of assessment, Part 15 of the Principal Act is amended in Chapter 1—

Relief for postgraduate and certain third-level fees.

(a) by the insertion of the following section after section 475:

“Relief for postgraduate fees.

475A.—(1) In this section—

‘academic year’ means, in relation to an approved course, a year of study commencing on a date not earlier than 1 August in a year of assessment;

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

‘approved college’ means, in relation to a year of assessment, a college or institution in the State that—

(a) provides courses to which a scheme approved by the Minister under the Local Authorities (Higher Education) Grants Acts, 1968 to 1992, applies, or

(b) operates in accordance with a code of standards which from time to time may,

with the consent of the Minister for Finance, be laid down by the Minister,

and which the Minister approves for the purposes of this section;

‘approved course’ means—

(a) a postgraduate course of study leading to a postgraduate award, based on a thesis or on the results of an examination, in an approved college—

(i) of not less than one academic year, but not more than 4 academic years, in duration,

(ii) that requires an individual, undertaking the course, to have been conferred with a degree or an equivalent qualification, and

(iii) that, in the case of a course provided by a college to which paragraph (b) of the definition of ‘approved college’ relates, the Minister, having regard to a code of standards which from time to time may, with the consent of the Minister for Finance, be laid down by the Minister in relation to the quality of education to be offered on such approved course, approves for the purposes of this section,

or

(b) a postgraduate course of study leading to a postgraduate award, based on a thesis or on the results of an examination, in a qualifying college—

(i) of not less than one academic year, but not more than 4

academic years, in Pt.1 S.21  
duration, and

- (ii) that requires an individual, undertaking the course, to have been conferred with a degree or an equivalent qualification;

‘dependant’, in relation to an individual, means a spouse or child of the individual or a person in respect of whom the individual is or was the legal guardian;

‘Minister’ means the Minister for Education and Science;

‘qualifying college’ means any university or similar institution of higher education in a Member State of the European Union (other than the State), including such a university or similar institution of higher education that provides distance education, and that is maintained or assisted by recurrent grants from public funds of that or any other Member State of the European Union (including the State);

‘qualifying fees’, in relation to an approved course and an academic year, means—

- (a) in the case of an approved college, the amount of fees chargeable in respect of tuition to be provided in relation to that course in that year and which, in relation to a course to which paragraph (a)(iii) of the definition of ‘approved course’ relates, the Minister, with the consent of the Minister for Finance, approves for the purposes of this section, and
- (b) in the case of a qualifying college, so much of the amount of fees chargeable in respect of tuition to be provided in relation to that course in that year as is equal to the amount of fees determined by the Minister, with the consent of the Minister for Finance, to be the qualifying fees for the purposes of

this section in relation to the class of approved course specified in the determination to which the particular course concerned belongs.

(2) Subject to this section, where an individual for a year of assessment proves that he or she has, on his or her own behalf or on behalf of his or her dependant, made a payment in respect of qualifying fees in respect of an approved course for the academic year in relation to that course commencing in that year of assessment, the income tax to be charged on the individual 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 aggregate of all such payments proved to be so made, and

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

(3) In the case of an individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any payment in respect of qualifying fees made by the individual's spouse shall, except where section 1023 applies, be deemed to have been made by the individual.

(4) For the purposes of this section, a payment in respect of qualifying fees shall be regarded as not having been made in so far as any sum in respect of, or by reference to, such fees has been or is to be received, directly or indirectly, by the individual, or, as the case may be, his or her dependant, from any source whatever by means of grant, scholarship or otherwise.

(5) (a) Where the Minister is satisfied that an approved college, within the meaning of paragraph (b) of the definition of 'approved college', or an approved course in that college, no longer meets the appropriate code of standards laid down, the Minister may by notice in writing given to

the approved college withdraw, with effect from the year of assessment following the year of assessment in which the notice is given, the approval of that college or course, as the case may be, for the purposes of this section.

- (b) Where the Minister withdraws the approval of any college or course for the purposes of this section, notice of its withdrawal shall be published as soon as may be in *Iris Oifigiúil*.

(6) Any claim for relief under this section made by an individual in respect of fees paid to a qualifying college shall be accompanied by a statement in writing made by the qualifying college concerned stating each of the following, namely—

- (a) that the college is a qualifying college for the purposes of this section,
- (b) the details of the course undertaken by the individual or his or her dependant,
- (c) the duration of the course, and
- (d) the amount of the fees paid in respect of the course.

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

- (a) a college is an approved college or is a qualifying college, or
- (b) a course of study is an approved course,

the Revenue Commissioners may consult with the Minister.

(8) On or before 1 July in each year of assessment, the Minister shall furnish the Revenue Commissioners with full details of—

- (a) all colleges and courses in respect of which approval has been granted and not

withdrawn for the purposes of this section, and

- (b) the amount of the qualifying fees in respect of each such course for the academic year commencing in that year of assessment.”,

- (b) in section 474, by the insertion after subsection (2) of the following subsection:

“(2A) In the case of an individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any payment in respect of qualifying fees made by the individual’s spouse shall, except where section 1023 applies, be deemed to have been made by the individual.”,

- (c) in section 474A, by the insertion after subsection (2) of the following subsection:

“(2A) In the case of an individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any payment in respect of qualifying fees made by the individual’s spouse shall, except where section 1023 applies, be deemed to have been made by the individual.”,

- (d) in section 475—

- (i) in subsection (1), by the insertion after the definition of “approved course” of the following definition:

“‘dependant’, in relation to a qualifying individual, means a spouse or child of the qualifying individual or a person in respect of whom the qualifying individual is or was the legal guardian;”, and

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

“(2) Subject to this section, where for a year of assessment a qualifying individual proves that he or she has, on his or her own behalf or on behalf of his or her dependant, made a payment in respect of qualifying fees in respect of an approved course for the academic year in relation to that course commencing in that year of assessment, the income tax to be charged on the qualifying individual 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 aggregate of all such payments proved to be so made, and

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

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(3) In the case of a qualifying individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any payment in respect of qualifying fees made by the qualifying individual's spouse shall, except where section 1023 applies, be deemed to have been made by the qualifying individual.”

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(e) in section 476—

(i) in subsection (1)—

(I) by the insertion after the definition of “An Foras” of the following definition:

“ ‘appropriate percentage’ means, in relation to a year of assessment, a percentage equal to the standard rate of tax for that year;”, and

(II) by the insertion after the definition of “certificate of competence” of the following definition:

“ ‘dependant’ means, in relation to an individual, a spouse or child of the individual or a person in respect of whom the individual is or was the legal guardian;”,

and

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

“(2) Subject to this section, where an individual proves that—

(a) he or she has, on his or her own behalf or on behalf of his or her dependant, made a payment in respect of qualifying fees in respect of an approved course, and

(b) the individual in respect of whom the fees are paid has been awarded a certificate of competence in respect of that course,

the income tax to be charged on the individual, other than in accordance with section 16(2), for the year of assessment in which that certificate of competence is awarded shall be reduced by an amount which is the lesser of—

(i) the amount equal to the appropriate percentage of the aggregate of all such payments proved to be so made, and

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

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(3) In the case of an individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any payment in respect of qualifying fees made by the individual's spouse shall, except where section 1023 applies, be deemed to have been made by the individual.”,

and

(f) in the Table to section 458, by the insertion, in Part 2, after “Section 475” of “Section 475A”.

(2) Section 1024 of the Principal Act is amended, as respects the year of assessment 2000-2001 and subsequent years of assessment, by the substitution in subsection (2)(a)(ix) of “475, 475A, 476” for “475, 476”.

Amendment of section 767 (payment to universities and other approved bodies for research in, or teaching of, approved subjects) of Principal Act.

**22.**—Section 767 of the Principal Act is amended—

(a) in subsection (1), by the substitution of the following for the definition of “approved body”:

“ ‘approved body’ means—

- (a) the National College of Ireland,
- (b) an institution comprising the Dublin Institute of Technology established by or under section 3 of the Dublin Institute of Technology Act, 1992, or
- (c) an educational institution established by or under section 3 of the Regional Technical Colleges Act, 1992, as a regional technical college;”

and

(b) by the insertion of the following after subsection (2):

“(3) (a) Subsection (2) shall also apply to any sum paid to a body of persons or a trust established in the State for the sole purpose of granting financial or other aid to—

- (i) an Irish university, or
- (ii) an approved body,

for the purpose of enabling the university or the approved body to undertake research in, or engage in the teaching of, an approved subject.

(b) This subsection shall apply and have effect as respects a chargeable period (within the meaning of section 321) being—

- (i) where the chargeable period is a year of assessment, the year 2000-2001, and any subsequent year of assessment, or
- (ii) where the chargeable period is an accounting period of a company, an accounting period ending on or after 6 April 2001.”.



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

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Amendment of Part 30 (occupational pension schemes, retirement annuities, purchased life annuities and certain pensions) of Principal Act.

(a) in section 770(1)—

- (i) by the insertion, before the definition of “administrator”, of the following definition:

“ ‘additional voluntary contributions’ means voluntary contributions made to a scheme by an employee which are—

- (i) contributions made under a rule or part of a rule, as the case may be, of a retirement benefits scheme (in this definition referred to as the ‘main scheme’) which provides specifically for the payment of members’ voluntary contributions, other than contributions made at the rate or rates specified for members’ contributions in the rules of the main scheme, or
- (ii) contributions made under a separately arranged scheme for members’ voluntary contributions which is associated with the main scheme;”,

and

- (ii) by the substitution, in the definition of “proprietary director”, of “5 per cent” for “20 per cent”,

(b) in section 772—

- (i) by the substitution of the following for paragraph (a) of subsection (3A):

“(a) The Revenue Commissioners shall not approve a retirement benefits scheme for the purposes of this Chapter unless it appears to them that the scheme provides for any individual entitled to a pension under the scheme who is—

- (i) a proprietary director of a company to which the scheme relates, or
- (ii) an individual entitled to rights arising from additional voluntary contributions to the scheme,

to opt, on or before the date on which that pension would otherwise become payable, for the transfer, on or after that date, to—

(I) the individual, or

(II) an approved retirement fund,

of an amount equivalent to the amount determined by the formula—

$$A - B$$

where—

A is—

(i) in the case of a proprietary director, the amount equal to the value of the individual's accrued rights under the scheme exclusive of any lump sum paid in accordance with subsection (3)(f), and

(ii) in the case of any other individual, the amount equal to the value of the individual's accrued rights under the scheme which relate to additional voluntary contributions paid by that individual exclusive of any part of that amount paid by way of lump sum in accordance with subsection (3) (f) in conjunction with the scheme rules, and

B is the amount or value of assets which the trustees, administrators or other person charged with the management of the scheme (in this section referred to as 'the trustees') would, if the assumptions in paragraph (b) were made, be required, in accordance with section 784C, to transfer to an approved minimum retirement fund held in the name of the individual or to apply in purchasing an annuity payable to the individual with effect from the date of the exercise of the said option.”,

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- (ii) by the substitution of the following for subparagraph Pt.1 S.23  
(i) of paragraph (b) of subsection (3A):

“(i) that the retirement benefits scheme or, as the case may be, the relevant part of the scheme was an annuity contract approved in accordance with section 784,”,

- (iii) in subsection (3B)—

(I) by the deletion of subparagraph (iii) of paragraph (a), and

(II) by the insertion, in paragraph (b), of “in the case of a proprietary director,” before “paragraph (f)”, and

- (iv) by the insertion of the following subsection after subsection (3B):

“(3C) Where the rules of a retirement benefits scheme provide for the purchase of an annuity from a company carrying on the business of granting annuities on human life, references in subsection (3A) to the date on which a pension would otherwise become payable shall, in relation to that retirement benefits scheme, be construed as references to the latest date on which such an annuity must be purchased in accordance with those rules.”,

- (c) in section 784, by the substitution of the following for subsection (2B):

“(2B) (a) Where an individual opts in accordance with subsection (2A), any amount paid to the individual by virtue of that subsection, other than an amount payable by virtue of paragraph (b) of subsection (2), shall be regarded as a payment of emoluments to which Schedule E applies and, accordingly, the provisions of Chapter 4 of Part 42 shall, subject to paragraph (b), apply to any such payment.

(b) The person making a payment to which paragraph (a) refers shall deduct tax from the payment at the higher rate for the year of assessment in which the payment is made unless that person has received from the Revenue Commissioners a certificate of tax free allowances or a tax deduction card for that year in respect of the individual beneficially entitled to the payment.”,

(d) in section 784A—

(i) in the definition of “qualifying fund manager” in subsection (1)—

(I) by the substitution of the following for paragraph (a)—

“(a) a person who is a holder of a licence granted under section 9 of the Central Bank Act, 1971, or a person who holds a licence or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,”

(II) by the substitution of the following for paragraph (j):

“(j) the holder of—

(i) an authorisation issued by the Minister for Enterprise, Trade and Employment under the European Communities (Life Assurance) Framework Regulations of 1984 (S.I. No. 57 of 1984) as amended, or

(ii) an authorisation granted by the authority charged by law with the duty of supervising the activities of insurance undertakings in a Member State other than the State in accordance with Article 6 of Directive No. 79/267/EEC<sup>1</sup>, who is carrying on the business of life assurance in the State, or

(iii) an official authorisation to undertake insurance in Iceland, Liechtenstein and Norway pursuant to the EEA Agreement within the meaning of the European Communities (Amendment) Act, 1993, and who is carrying on the business of life assurance in the State,”

and

(III) by the substitution of the following for paragraph (l):

“(l) a firm approved under section 10 of the Investment Intermediaries Act, 1995, which is authorised to hold

<sup>1</sup>O.J. No. L63, 13.3.1979, p.1

client money, other than a firm authorised as a Restricted Activity Investment Product Intermediary, where the firm's authorisation permits it to engage in the proposed activities, or a business firm which has been authorised to provide similar investment business services under the laws of a Member State of the European Communities which correspond to that Act;"

- (ii) by the insertion in subsection (1) of the following after paragraph (b):

“(c) Nothing in this Part shall be construed as authorising or permitting a person who is a qualifying fund manager to provide any services which that person would not otherwise be authorised or permitted to provide in the State.

(d) Any reference in this section to a distribution in relation to an approved retirement fund shall be construed as including any payment or transfer of assets out of the fund or any assignment of assets out of the fund, including a payment, transfer or assignment to the individual beneficially entitled to the assets, other than a payment, transfer or assignment to another approved retirement fund the beneficial owner of the assets in which is the individual who is beneficially entitled to the assets in the first-mentioned approved retirement fund, whether or not the payment, transfer or assignment is made to the said individual.”

- (iii) by the substitution of the following for subsections (2) to (7):

“(2) Subject to subsections (3) and (4), exemption from income tax and capital gains tax shall be allowed in respect of the income and chargeable gains arising in respect of assets held in an approved retirement fund.

(3) Subject to subsection (4)—

(a) the amount or value of any distribution by a qualifying fund manager in respect of assets held in an approved retirement fund shall be treated as a payment to the person beneficially entitled to the assets in the fund of emoluments to which Schedule E applies and, accordingly, the provisions of Chapter 4 of Part 42 shall apply to any such distribution, and

(b) the qualifying fund manager shall deduct tax from the distribution at

the higher rate for the year of assessment in which the distribution is made unless the qualifying fund manager has received from the Revenue Commissioners a certificate of tax free allowances or a tax deduction card for that year in respect of the person referred to in paragraph (a).

- (4) (a) Where the distribution referred to in subsection (3) is made following the death of the individual who was prior to death beneficially entitled to the assets of the approved retirement fund, the amount or value of the distribution shall be treated as the income of that individual for the year of assessment in which that individual dies and, subject to paragraph (b), subsection (3) shall apply accordingly.
- (b) Subsection (3) shall not apply to a distribution made following the death of the individual who was prior to death beneficially entitled to the assets in an approved retirement fund where the distribution is made—
- (i) to another such fund (hereafter in this subsection referred to as 'the second-mentioned fund') the beneficial owner of the assets in which is the spouse of the said individual, or
  - (ii) to, or for the sole benefit of, any child of the individual.
- (c) Where, in a case referred to in paragraph (b), the distribution is made—
- (i) to a person who had attained the age of 21 years at the date of death of the individual beneficially entitled to the assets in the approved retirement fund, or
  - (ii) following the death of the beneficial owner of the second-mentioned fund, not being a distribution to or for the sole benefit of a child of that owner who at the time of death of that person had not attained the age of 21 years,

the qualifying fund manager shall deduct tax from the distribution at

the standard rate of income tax in Pt.1 S.23  
force at the time of the making of  
such a distribution, and—

- (I) notwithstanding anything contained in any provision of the Income Tax Acts, the amount so charged to tax shall not be treated as income for any other purpose of those Acts, and
- (II) the provisions of Chapter 4 of Part 42 and Regulations made in accordance with that Chapter shall, with any necessary modifications, apply to any deduction made under this subsection as if such a deduction were made in accordance with Regulation 25(2)(b) of the Income Tax (Employments) Regulations 1960 (S.I. No. 28 of 1960).

(5) For the purposes of this section, Chapter 1 of Part 26 shall apply as if references in that Chapter to pension business were references to moneys held in an approved retirement fund.

(6) Notwithstanding Chapter 4 of Part 8, that Chapter shall apply to a deposit (within the meaning of that Chapter) where the deposit consists of money held by a qualifying fund manager in that capacity as if such a deposit were not a relevant deposit (within the meaning of that Chapter).

(7) (a) At any time when the qualifying fund manager—

- (i) is not resident in the State, or
- (ii) is not trading in the State through a fixed place of business,

the qualifying fund manager shall ensure that there is a person resident in the State and appointed by the qualifying fund manager to be responsible for the discharge of all duties and obligations relating to approved retirement funds which are imposed on the qualifying fund manager by virtue of this Chapter.

(b) A qualifying fund manager shall be liable to pay to the Collector-General income tax which the fund manager is required to deduct from any distribution by virtue of this Chapter and the individual beneficially entitled to assets held in an approved retirement fund, including

the personal representatives of a deceased individual who was so entitled prior to that individual's death, shall allow such deduction; but where there are no funds or insufficient funds available out of which the qualifying fund manager may satisfy the tax required to be deducted, the amount of such tax for which there are insufficient funds available shall be a debt due to the qualifying fund manager from the individual beneficially entitled to the asset in the approved retirement fund or from the estate of the deceased individual, as the case may be.”,

(e) in section 784C—

(i) by the substitution of the following for subsection (7):

“(7) The provisions of section 784A shall, with any necessary modifications, apply to income and chargeable gains arising from, and to distributions in respect of assets, held in an approved minimum retirement fund as they apply to assets held in an approved retirement fund.”,

and

(ii) by the deletion of subsections (8) and (9),

and

(f) by the deletion of section 784E.

(2) (a) *Paragraph (b)(iv) of subsection (1) shall be deemed to have come into force and shall take effect as on and from 6 April 1999.*

(b) *Paragraphs (b)(iii)(I), (d)(iii), (e) and (f) of subsection (1) shall apply as regards an approved retirement fund or an approved minimum retirement fund, as the case may be, where the assets in the fund were first accepted into the fund by the qualifying fund manager on or after 6 April 2000.*

(c) *Subject to paragraphs (a) and (b), subsection (1) shall apply as on and from 6 April 2000.*

(d) *Notwithstanding the provisions of Part 30 of the Principal Act, a retirement benefits scheme which was approved by the Revenue Commissioners before 6 April 2000 shall not cease to be an approved scheme because the rules of the scheme are altered on or after that date to enable an individual to whom the scheme applies to exercise an option under subsection (3A) (as amended by this Act) of section 772 of the Principal Act, which that individual would be in a position to exercise in accordance with the terms of that subsection as regards a scheme approved on or after 6 April 2000 and, as regards such a scheme,*



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the provisions of this section shall apply as if the scheme were one approved on or after that date. Pt.1 S.23

**24.**—Section 515 of the Principal Act is amended—

Amendment of section 515 (excess or unauthorised shares) of Principal Act.

(a) in subsection (2A)(b) (inserted by the Finance Act, 1999) by the deletion of “5 years” and the substitution of “period of 5 years, or such lesser period as the Minister for Finance may by order prescribe,”, and

(b) by the insertion after subsection (7) of the following:

“(8) Where an order is proposed to be made under subsection (2A)(b), a draft of the order shall be laid before Dáil Éireann, and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.”.

**25.**—Schedule 11 to the Principal Act is amended by the insertion after paragraph 13 of the following:

Amendment of Schedule 11 (profit sharing schemes) to Principal Act.

“13A.—(1) Notwithstanding paragraph 13, an individual who has had shares appropriated to him or her in a year of assessment under an approved scheme established by a company (‘the first-mentioned company’) shall, subject to subparagraph (2), be entitled to have shares appropriated to him or her in that year of assessment under an approved scheme established by another company (‘the second-mentioned company’) if, in that year of assessment, the second-mentioned company acquires control, or is part of a consortium that acquires ownership, of the first-mentioned company under a scheme of reconstruction or amalgamation (within the meaning of section 587).

(2) Section 515 and paragraph 3(4) shall, subject to any necessary modification, apply as if the first-mentioned company and the second-mentioned company were the same company.

(3) This paragraph shall apply to an appropriation of shares made, on or after the date of the passing of the *Finance Act, 2000*, by the trustees of an approved scheme (within the meaning of section 510(1)).”.

**26.**—Schedule 12 to the Principal Act is amended in paragraph 11—

Amendment of Schedule 12 (employee share ownership trusts) to Principal Act.

(a) by the substitution for subparagraph (2B)(d) (inserted by the Finance Act, 1999) of the following:

“(d) at each given time—

(i) in the case of an employee share ownership trust approved under paragraph 2 before the passing of the *Finance Act, 2000*, in the 5 year period referred to in clause (b), and

(ii) in the case of an employee share ownership trust approved under paragraph 2 on or after the passing of the *Finance Act, 2000*, in the 5 year period, or such lesser period as the Minister for

Finance may by order prescribe, commencing on the date referred to in clause (b),

50 per cent, or such lesser percentage as the Minister for Finance may by order prescribe, of the securities retained by the trustees at that time were pledged by them as security for borrowings, and”,

and

(b) by the insertion after subparagraph (9) of the following:

“(10) Where an order is proposed to be made under subparagraph (2B)(d), a draft of the order shall be laid before Dáil Éireann, and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.”.

Rights to acquire shares or other assets.

27.—The Principal Act is amended—

(a) in section 128—

(i) by the insertion after subsection (2) of the following:

“(2A) Notwithstanding any other provision of the Tax Acts, where a person is, by virtue of this section, chargeable to tax under Schedule E for a year of assessment in respect of an amount equal to the gain realised from the exercise, assignment or release of a right, he or she shall be a chargeable person for that year for the purposes of Part 41, unless—

(a) that amount is deducted in determining the amount of his or her tax-free allowances for that year by virtue of regulation 10(1)(b) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960), or

(b) the person has been exempted by an inspector from the requirements of section 951 by reason of a notice given under subsection (6) of that section.”.

(ii) by the substitution in subsection (11) of “30 June in the year of assessment following” for “30 days after the end of”, and

(iii) by the insertion after subsection (11) of the following:

“(11A) Where in relation to any right—

(a) the person referred to in subsection (11) is resident in a territory other than the State, and

(b) the person who obtains that right is a director or an employee of a company which is resident in the State,

the provisions of subsection (11) shall also apply to that company.”.

(b) by the insertion after section 128 of the following:

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“Deferral of  
payment of tax  
under section  
128.

128A.—(1) Subject to subsection (2), in any case where—

- (a) for any year of assessment a person is chargeable to tax under Schedule E, by virtue of section 128, on an amount equal to a gain realised by the exercise of a right to acquire shares in a company (‘the relevant shares’), which right was exercised on or after 6 April 2000, and
- (b) following an assessment for the year in which that right was exercised (‘the relevant year’) an amount of tax, chargeable by virtue of section 128 in respect of the amount referred to in paragraph (a), is payable to the Collector-General, and
- (c) the person concerned makes an election in accordance with subsection (3),

he or she shall be entitled to defer payment of the tax in accordance with subsection (4).

(2) Subsection (1) shall not apply where the relevant shares are disposed of by the person concerned in the relevant year.

(3) An election under this section shall be made by notice in writing to the inspector on or before 31 January in the year of assessment following the relevant year.

(4) Where an election has been made under this section the tax referred to in subsection (1)(b) shall, notwithstanding any other provision of the Income Tax Acts, but subject to the provisions of this section, be paid on or before the earlier of—

- (a) 1 November in the year of assessment following the year of assessment in which the relevant shares are disposed of, or
- (b) 1 November in the year of assessment following the year of assessment beginning 7 years after the relevant year.

(5) The reference in subsection (4)(a) to the relevant shares being disposed of includes a part disposal of such shares, and in the case of a part disposal, the tax to be

paid shall be determined in a manner that is just and reasonable.

(6) Subject to any other provision of the Income Tax Acts requiring income of any description to be treated as the highest part of a person's income, in determining for the purposes of paragraph (b) of subsection (1) what tax is chargeable on a person by virtue of section 128 in respect of an amount referred to in paragraph (a) of that subsection, that amount shall be treated as the highest part of his or her income for the relevant year.

(7) Notwithstanding any other provision of the Income Tax Acts, the due date in relation to tax, the payment of which has been deferred by virtue of an election under this section, shall, for the purposes of section 1080, be the date when the amount becomes due and payable under subsection (4).”

and

(c) in Schedule 29—

- (i) by the deletion in column 2 of “section 128(11)”, and
- (ii) by the insertion in column 3 after “section 127(5)” of “section 128(11) and (11A)”.

Amendment of Chapter 4 (interest payments by certain deposit takers) of Part 8 of Principal Act.

**28.—**(1) Section 256 of the Principal Act is amended in subsection (1) by the substitution for the definition of “appropriate tax” of the following:

“‘appropriate tax’, in relation to a payment of relevant interest, means a sum representing income tax on the amount of the payment—

- (a) in the case of a relevant deposit or relevant deposits held in a special savings account, at the rate of 20 per cent,
- (b) in the case of a relevant deposit the interest in respect of which is payable annually or at more frequent intervals or a relevant deposit which is a specified deposit within the meaning of section 260, at the standard rate in force at the time of payment, and
- (c) in the case of any other relevant deposit, being a deposit made on or after the date of the passing of the *Finance Act, 2000*, at a rate determined by the formula—

$(S + 3)$  per cent

where S is the standard rate per cent (within the meaning of section 4(1)) in force at the time of payment;”.

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(2) Section 261 of the Principal Act is amended by the substitution Pt.1 S.28 for subparagraph (i) of paragraph (c) of the following:

“(i) the amount of any payment of relevant interest shall be regarded as income chargeable to tax under Case IV of Schedule D, and under no other Case or Schedule, and shall be taken into account in computing the total income of the person entitled to that amount, but, in relation to such a person (being an individual)—

- (I) except for the purposes of a claim to repayment under section 267(3), the specified amount within the meaning of section 187 or 188 shall, as respects the year of assessment for which he or she is to be charged to income tax in respect of the relevant interest, be increased by the amount of that payment,
- (II) the part of taxable income on which he or she is charged to income tax at the standard rate for that year shall be increased by the part of such relevant interest which comes within paragraph (b) or the definition of ‘appropriate tax’ in section 256(1), and
- (III) as respects any part of relevant interest which comes within paragraph (c) of the definition of ‘appropriate tax’ in section 256(1), the person shall be chargeable to tax at the rate at which tax was deducted from that relevant interest,

and”.

**29.—**(1) Section 1022 of the Principal Act is amended by—

(a) the substitution for subsection (1) of the following:

“(1) Where—

(a) an assessment to income tax (in this section referred to as the ‘original assessment’) has been made for any year of assessment on an individual, or on an individual’s trustee, guardian or committee (in this section referred to as the ‘representative’), or on an individual’s executors or administrators,

(b) the Revenue Commissioners are of the opinion that, if an application for separate assessment under section 1023 had been in force with respect to that year of assessment, an assessment in respect of or of part of the same income would have been made on, or on the representative of, or on the executors or administrators of, an individual who is the spouse of the individual referred to in paragraph (a) or who was the spouse of the individual referred to in paragraph (a) (in this subsection and in subsection (2) referred to as the ‘spouse’) in that year of assessment, and

Extension of section 1022 (special provisions relating to tax on wife’s income) of Principal Act to spouse’s income, etc.

- (c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of 28 days from the time when it became due,

the Revenue Commissioners may give to the spouse, or, if the spouse is dead, to the spouse's executors or administrators, or, if an assessment referred to in paragraph (b) could in the circumstances referred to in that paragraph have been made on the spouse's representative, to the spouse, or to the spouse's representative, a notice stating—

- (i) particulars of the original assessment and of the amount remaining unpaid under that assessment, and
- (ii) to the best of their judgement, particulars of the assessment (in this subsection referred to as the 'last-mentioned assessment') which would have been so made,

and requiring the person to whom the notice is given to pay the lesser of—

- (A) the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, and
- (B) the amount remaining unpaid under the original assessment.”,

- (b) the substitution in subsection (2) of “to the spouse or to the spouse's representative, or to the spouse's executors or administrators, as would have followed on the making on the spouse, or on the spouse's representative, or on the spouse's executors or administrators” for “to a woman, or to her trustee, guardian or committee, or to her executors or administrators, as would have followed on the making on her, or on her trustee, guardian or committee, or on her executors or administrators”,
- (c) the substitution for subsection (6) of the following:

“(6) Where a husband or a wife dies (in this subsection and subsections (7) and (8) referred to as the 'deceased spouse') and at any time before the death the husband and wife were living together, then the other spouse or, if the other spouse is dead, the executors or administrators of the other spouse may, not later than 2 months from the date of the grant of probate or letters of administration in respect of the deceased spouse's estate or, with the consent of the deceased spouse's executors or administrators, at any later date, give to the deceased spouse's executors or administrators and to the inspector a notice in writing declaring that, to the extent permitted by this section, the other spouse or the executors or administrators of the other spouse disclaim responsibility for unpaid income tax in respect of all income of the deceased spouse for any year of assessment or part of a year of assessment, being a year of assessment or a part of a year of assessment for which any income of the deceased spouse was deemed to be the income of the other spouse and in respect of which the other spouse

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was assessed to tax under section 1017 or under that Pt.1 S.29 section as modified by section 1019.”,

- (d) the substitution in subsection (7) of “the deceased spouse’s executors or administrators” for “the woman’s executors or administrators”,
- (e) the substitution in subsection (8) of “a deceased spouse’s executors or administrators” for “a woman’s executors or administrators”, and
- (f) the insertion after subsection (8) of the following:

“(9) The Revenue Commissioners may nominate in writing any of their officers to perform any acts and discharge any functions authorised by this section to be performed or authorised by the Revenue Commissioners.”.

- (2) (a) *Paragraphs (a) to (e) of subsection (1) shall apply as respects assessments made on or after 10 February 2000.*
- (b) *Paragraph (f) of subsection (1) shall apply as respects assessments made before, on or after 10 February 2000.*

### Chapter 3

#### *Dividend Withholding Tax*

**30.**—(1) Chapter 8A (inserted by the Finance Act, 1999) of Part 6 of the Principal Act is amended— Dividend withholding tax.

(a) in section 172A(1)(a)—

- (i) by the insertion of the following definition after the definition of “American depositary receipt”:

“‘approved body of persons’ has the same meaning as in section 235;”,

- (ii) by the insertion of the following definition after the definition of “collective investment undertaking”:

“‘designated broker’ has the same meaning as in section 838;”,

and

- (iii) by the insertion of the following definition after the definition of “relevant territory”:

“‘special portfolio investment account’ has the same meaning as in section 838;”,

(b) in section 172B—

- (i) by the insertion of the following after subsection (4):

“(4A) (a) A company resident in the State shall keep and retain for the longer of the following periods—

- (i) a period of 6 years, or

- (ii) a period which, in relation to the relevant distributions in respect of which the declaration or notification is made or, as the case may be, given, ends not earlier than 3 years after the date on which the company has ceased to make relevant distributions to the person who made the declaration or, as the case may be, gave the notification to the company,

all declarations (and accompanying certificates) and notifications (not being a notice given to the company by the Revenue Commissioners) which are made or, as the case may be, given to the company in accordance with this Chapter and Schedule 2A.

- (b) A company resident in the State shall, on being so required by notice in writing given to the company by the Revenue Commissioners, make available to the Commissioners, within the time specified in the notice—

- (i) all declarations, certificates or notifications referred to in paragraph (a) which have been made or, as the case may be, given to the company, or

- (ii) such class or classes of such declarations, certificates or notifications as may be specified in the notice.

- (c) The Revenue Commissioners may examine or take extracts from or copies of any declarations, certificates or notifications made available to the Commissioners under paragraph (b).”,

- (ii) by the substitution of the following for subsection (6):

“(6) This section shall not apply to a relevant distribution where section 831(5) applies in relation to that distribution.”,

and

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

“(7) This section shall not apply where a relevant distribution is made by a company resident in the State and that distribution is—

- (a) a distribution made out of exempt profits within the meaning of section 140,

- (b) a distribution made out of disregarded income within the meaning of section 141



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and to which subsection (3)(a) of that Pt.1 S.30 section applies, or

(c) a distribution made out of exempted income within the meaning of section 142.”,

(c) in section 172C—

(i) in subsection (2)—

(I) by the deletion in paragraph (d) of “or” and by the substitution in paragraph (e)(ii) of “Schedule 2A,” for “Schedule 2A.”, and

(II) by the addition of the following after paragraph (e):

“(f) an approved body of persons which—

(i) is entitled to exemption from income tax under Schedule F in respect of the relevant distribution by virtue of section 235(2), and

(ii) has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 7A of Schedule 2A,

or

(g) a designated broker who—

(i) is receiving the relevant distribution as all or part of the relevant income or gains (within the meaning of section 838) of a special portfolio investment account, and

(ii) has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 7B of Schedule 2A.”,

and

(ii) by the addition of the following after subsection (2):

“(3) For the purposes of subsection (2) and Schedule 2A—

(a) a collective investment undertaking which receives a relevant distribution, and

(b) a designated broker who receives a relevant distribution as all or part of the relevant income or gains (within the meaning of section 838) of a special portfolio investment account,

shall be treated as being beneficially entitled to the relevant distribution.”,

(d) in section 172D—

(i) by the substitution in subsection (3) of the following for paragraph (b):

“(b) a company which is not resident in the State and—

(i) is, by virtue of the law of a relevant territory, resident for the purposes of tax in the relevant territory, but is not under the control, whether directly or indirectly, of a person or persons who is or are resident in the State,

(ii) is under the control, whether directly or indirectly, of a person or persons who, by virtue of the law of a relevant territory, is or are resident for the purposes of tax in the relevant territory and who is or are, as the case may be, not under the control, whether directly or indirectly, of a person who is, or persons who are, not so resident, or

(iii) the principal class of the shares of which, or—

(I) where the company is a 75 per cent subsidiary of another company, of that other company, or

(II) where the company is wholly-owned by 2 or more companies, of each of those companies,

is substantially and regularly traded on one or more than one recognised stock exchange in a relevant territory or territories or on such other stock exchange as may be approved of by the Minister for Finance for the purposes of this Chapter,

and which has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 9 of Schedule 2A and in relation to which declaration each of the certificates referred to in clause (i), the certificate referred to in clause (ii) or, as the case may be, the certificate referred to in clause (iii), of subparagraph (f) of that paragraph is a current certificate (within the meaning of paragraph 2 of that Schedule) at the time of the making of the relevant distribution.”,

- (ii) by the insertion of the following after subsection (3): Pt.1 S.30

“(3A) For the purposes of subsection (3)(b)(i), ‘control’ shall be construed in accordance with subsections (2) to (6) of section 432 as if in subsection (6) of that section for ‘5 or fewer participators’ there were substituted ‘persons resident in the State’.”

- (iii) by the substitution in subsection (4) of “subsection (3)(b)(ii)” for “subsection (3)(b)(i)” in each place where it occurs,

- (iv) in subsection (5)—

(I) by the substitution of “subsection (3)(b)(iii)(I)” for “subsection (3)(b)(ii)(II)”, and

(II) by the deletion of “subparagraph (iii) of”,

and

- (v) by the addition of the following after subsection (5):

“(6) For the purposes of subsection (3)(b)(iii)(II), a company (in this subsection referred to as an ‘aggregated 100 per cent subsidiary’) shall be treated as being wholly-owned by 2 or more companies (in this subsection referred to as the ‘joint parent companies’) if and so long as 100 per cent of its ordinary share capital is owned directly or indirectly by the joint parent companies, and for the purposes of this subsection—

(a) subsections (2) to (10) of section 9 shall apply as those subsections apply for the purposes of that section, and

(b) sections 412 to 418 shall apply with any necessary modifications as those sections would apply for the purposes of Chapter 5 of Part 12—

(i) if section 411(1)(c) were deleted, and

(ii) if the following subsection were substituted for subsection (1) of section 412:

‘(1) Notwithstanding that at any time a company is an aggregated 100 per cent subsidiary (within the meaning assigned by section 172D(6)) of the joint parent companies (within the meaning assigned by that section), it shall not be treated at that time as such a subsidiary unless additionally at that time—

(a) the joint parent companies are between them beneficially entitled to not less than 100 per cent of any profits available for

distribution to equity holders of the company, and

- (b) the joint parent companies would be beneficially entitled between them to not less than 100 per cent of any assets of the company available for distribution to its equity holders on a winding-up.'”,

(e) in section 172E—

(i) in subsection (3)—

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

“(a) to accept, and to retain for the longer of the following periods—

- (i) a period of 6 years, or
- (ii) a period which, in relation to the relevant distributions in respect of which the declaration or notification is made or, as the case may be, given, ends not earlier than 3 years after the date on which the intermediary has ceased to receive relevant distributions on behalf of the person who made the declaration or, as the case may be, gave the notification to the intermediary,

all declarations (and accompanying certificates) and notifications (not being a notice given to the intermediary by the Revenue Commissioners) which are made or, as the case may be, given to the intermediary in accordance with this Chapter and Schedule 2A,

(b) on being so required by notice in writing given to the intermediary by the Revenue Commissioners, to make available to the Commissioners, within the time specified in the notice—

- (i) all declarations, certificates or notifications referred to in paragraph (a) which have been made or, as the case may be, given to the intermediary, or
- (ii) such class or classes of such declarations, certificates or notifications as may be specified in the notice,”

and

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(II) by the substitution of the following for paragraph (f):

“(f) to provide to the Revenue Commissioners, not later than 3 months after the end of the first year of the operation of the agreement by the intermediary, a report on the intermediary’s compliance with the agreement in that year, which report shall be signed by—

(i) if the intermediary is a company, the auditor of the company, or

(ii) if the intermediary is not a company, a person who, if the intermediary were a company, would be qualified to be appointed auditor of the company,

and thereafter, on being required by notice in writing given to the intermediary by the Revenue Commissioners, to provide to the Commissioners, within the time specified in the notice, a similar report in relation to such other period of the operation of the agreement by the intermediary as may be specified in the notice,”

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

“(3A) The Revenue Commissioners may examine or take extracts from or copies of any declarations, certificates or notifications made available to the Commissioners under subsection (3)(b).”

and

(iii) by the addition of the following after subsection (7):

“(8) Without prejudice to the operation of subsection (6), the authorisation by the Revenue Commissioners of an intermediary as a qualifying intermediary for the purposes of this Chapter shall cease to have effect on the day before the seventh anniversary of the date from which such authorisation applied; but this shall not prevent—

(a) the intermediary and the Revenue Commissioners from agreeing to renew the qualifying intermediary agreement entered into between them in accordance with subsection (3) or to enter into a further such agreement, and

(b) a further authorisation by the Revenue Commissioners of the intermediary as a

qualifying intermediary for the purposes of this Chapter.”,

(f) in section 172F—

(i) in subsection (3)—

(I) by the substitution in paragraph (e) of “For the purposes of this section, but subject to paragraphs (g) and (h)” for “For the purposes of paragraph (d)”,

(II) by the substitution in paragraph (e)(v) of “by way of notice in writing or in electronic format” for “by way of notice in writing given in accordance with subsection (1)” and “Liable Fund, and” for “Liable Fund.”,

(III) by the substitution of the following for subparagraphs (vi) and (vii) of paragraph (e):

“(vi) enters into an agreement with the qualifying intermediary or further specified intermediary, as the case may be, under the terms of which it agrees that if and when required to comply with subsection (7A) it will do so.”,

and

(IV) by the addition of the following after paragraph (f):

“(g) Notwithstanding paragraph (e), where the Revenue Commissioners are satisfied that an intermediary, being a specified intermediary or other specified intermediary referred to in subsection (7A), has failed to comply with that subsection—

(i) the Commissioners may, by notice in writing given to the intermediary, notify it that it shall cease to be treated as a specified intermediary for the purposes of this section from such date as may be specified in the notice, and

(ii) notwithstanding any obligations as to secrecy or other restriction upon disclosure of information imposed by or under statute or otherwise, the Commissioners may make available to any qualifying intermediary (being a depositary bank holding shares in trust for, or on behalf of, the holders of American depositary receipts) or specified intermediary a copy of such notice.

(h) Where subsequently the Revenue Pt.1 S.30

Commissioners are satisfied that the intermediary has furnished the information required under subsection (7A) and will in future comply with that subsection if and when requested to do so, the Commissioners may, by further notice in writing given to the intermediary, revoke the notice given to the intermediary under paragraph (g) from such date as may be specified in the further notice, and a copy of that further notice shall be given to any person to whom a copy of the notice under paragraph (g) was given.”,

(ii) by the substitution of the following for subsection (7):

“(7) (a) A qualifying intermediary shall, on being so required by notice in writing given to the qualifying intermediary by the Revenue Commissioners, make a return to the Commissioners, within the time specified in the notice (which shall not be less than 30 days) and as respects such year of assessment as may be specified in the notice (being the year of assessment 1999-2000 or any subsequent year of assessment), showing—

(i) the name and address of—

(I) each company resident in the State from which the qualifying intermediary received, on behalf of another person, a relevant distribution made by that company in the year of assessment to which the return refers, and

(II) each other person from whom the qualifying intermediary received, on behalf of another person, an amount or other asset representing a relevant distribution made by a company resident in the State in the year of assessment to which the return refers,

(ii) the amount of each such relevant distribution,

(iii) the name and address of each person to whom such a relevant distribution, or an amount or other asset representing such a relevant distribution, has been given by the qualifying intermediary, and

- (iv) the name and address of each person referred to in subparagraph (iii) in respect of whom a declaration under section 172C(2) or 172D(3) has been received by the qualifying intermediary.
  - (b) A return required to be made by a qualifying intermediary under paragraph (a) may be confined to such class or classes of relevant distributions as may be specified in the notice given to the qualifying intermediary by the Revenue Commissioners under that paragraph.
- (7A) (a) This subsection shall apply where a qualifying intermediary has been required to make a return to the Revenue Commissioners under subsection (7)(a) and a relevant distribution (or an amount or other asset representing a relevant distribution), the details of which are required to be included in that return, has been given by the qualifying intermediary to a specified intermediary.
- (b) The qualifying intermediary shall, immediately on receipt of the notice referred to in subsection (7)(a), request the specified intermediary, by way of notice in writing or in electronic format, to notify the qualifying intermediary or the Revenue Commissioners of the name and address of each person to whom the specified intermediary gave such a distribution (or an amount or other asset representing such a distribution) and of the amount of each such distribution.
  - (c) The specified intermediary shall, within 21 days of the receipt of a notice under paragraph (b), furnish to the qualifying intermediary or, at the discretion of the specified intermediary, to the Revenue Commissioners, by way of notice in writing or in electronic format, the information required under that paragraph.
  - (d) Where the specified intermediary furnishes the information required under paragraph (b)—
    - (i) to the qualifying intermediary, the qualifying intermediary shall include that information in the return required to be made by it under subsection (7)(a), or
    - (ii) to the Revenue Commissioners, the specified intermediary shall, by way of notice in writing or in electronic format, immediately advise the qualifying intermediary of that fact



and the qualifying intermediary shall include in the return required to be made by it under subsection (7)(a) a statement to the effect that it has been so advised by the specified intermediary.

- (e) If any person to whom a specified intermediary gave such a distribution (or an amount or other asset representing such a distribution) is another specified intermediary, the specified intermediary shall, immediately on the receipt of a notice under paragraph (b), request the other specified intermediary, by way of notice in writing or in electronic format, to notify the specified intermediary or the Revenue Commissioners of the name and address of each person to whom it gave such a distribution (or an amount or other asset representing such a distribution) and of the amount of each such distribution.
- (f) The other specified intermediary shall, within 21 days of the receipt of a notice under paragraph (e), furnish to the specified intermediary or, at the discretion of the other specified intermediary, to the Revenue Commissioners, by way of notice in writing or in electronic format, the information required under that paragraph.
- (g) Where the other specified intermediary furnishes the information required under paragraph (e)—
- (i) to the specified intermediary, the specified intermediary shall, by way of notice in writing or in electronic format, immediately transmit that information to the person referred to in paragraph (d) (being the qualifying intermediary or the Revenue Commissioners, as the case may be) to whom it furnishes the information required under paragraph (b), and—
- (I) if that person is the qualifying intermediary, the qualifying intermediary shall include that information in the return required to be made by it under subsection (7)(a), or
- (II) if that person is the Revenue Commissioners, the specified intermediary shall, by way of notice in writing or in electronic format, immediately advise the qualifying intermediary of the fact that the information

required to be furnished by the other specified intermediary under paragraph (e) has been furnished to the specified intermediary and transmitted by the specified intermediary to the Revenue Commissioners in accordance with this paragraph and the qualifying intermediary shall include in the return to be made by it under subsection (7)(a) a statement to the effect that it has been so advised by the specified intermediary,

or

- (ii) to the Revenue Commissioners, the other specified intermediary shall, by way of notice in writing or in electronic format, immediately advise the specified intermediary of that fact, the specified intermediary shall in turn, by way of similar notice, immediately advise the qualifying intermediary of that fact and the qualifying intermediary shall include in the return required to be made by it under subsection (7)(a) a statement to the effect that it has been so advised by the specified intermediary.

- (h) Where, in accordance with this subsection, the specified intermediary or the other specified intermediary furnishes information to the Revenue Commissioners in electronic format, such format shall be agreed in advance with the Revenue Commissioners.”,

and

- (iii) by the deletion in subsection (8) of “, not later than the 21st day of May following the year of assessment to which the return refers,”,

- (g) in section 172G—

- (i) in subsection (3)—

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

“(a) to accept, and to retain for the longer of the following periods—

- (i) a period of 6 years, or  
 (ii) a period which, in relation to the relevant distributions in respect of which the declaration or notification is made or, as the case

may be, given, ends not earlier than 3 years after the date on which the intermediary has ceased to receive relevant distributions on behalf of the person who made the declaration or, as the case may be, gave the notification to the intermediary, Pt.1 S.30

all declarations (and accompanying certificates) and notifications (not being a notice given to the intermediary by the Revenue Commissioners) which are made or, as the case may be, given to the intermediary in accordance with this Chapter and Schedule 2A,

- (b) on being so required by notice in writing given to the intermediary by the Revenue Commissioners, to make available to the Commissioners, within the time specified in the notice—
- (i) all declarations, certificates or notifications referred to in paragraph (a) which have been made or, as the case may be, given to the intermediary, or
  - (ii) such class or classes of such declarations, certificates or notifications as may be specified in the notice,”

and

- (II) by the substitution of the following for paragraph (g):

“(g) to provide to the Revenue Commissioners, not later than 3 months after the end of the first year of the operation of the agreement by the intermediary, a report on the intermediary’s compliance with the agreement in that year, which report shall be signed by—

- (i) if the intermediary is a company, the auditor of the company, or
- (ii) if the intermediary is not a company, a person who, if the intermediary were a company, would be qualified to be appointed auditor of the company,

and thereafter, on being required by notice in writing given to the intermediary by the Revenue Commissioners, to provide to the Commissioners, within the time specified

in the notice, a similar report in relation to such other period of the operation of the agreement by the intermediary as may be specified in the notice,

and”,

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

“(3A) The Revenue Commissioners may examine or take extracts from or copies of any declarations, certificates or notifications made available to the Commissioners under subsection (3)(b).”,

and

(iii) by the addition of the following after subsection (7):

“(8) Without prejudice to the operation of subsection (6), the authorisation by the Revenue Commissioners of an intermediary as an authorised withholding agent for the purposes of this Chapter shall cease to have effect on the day before the seventh anniversary of the date from which such authorisation applied; but this shall not prevent—

(a) the intermediary and the Revenue Commissioners from agreeing to renew the authorised withholding agent agreement entered into between them in accordance with subsection (3) or to enter into a further such agreement, and

(b) a further authorisation by the Revenue Commissioners of the intermediary as an authorised withholding agent for the purposes of this Chapter.”,

(h) in section 172K(1)—

(i) by the deletion in paragraph (f) of “and” and by the substitution in paragraph (g) of “refers, and” for “refers.”, and

(ii) by the addition of the following after paragraph (g):

“(h) in a case where section 172B has not applied to a relevant distribution by virtue of the operation of subsection (7) of that section, whether the relevant distribution is a distribution within paragraph (a), (b) or (c) of that subsection.”,

and

(j) by the insertion of the following section after section 172L:

“Deduction of dividend withholding tax on settlement of market claims.

172LA.—(1) In this section, ‘stock broker’, means a member firm of the Irish Stock Exchange or of a recognised stock exchange in another territory.

(2) For the purposes of this section, a market claim shall be deemed to have arisen in relation to a relevant distribution where—

(a) a company resident in the State has made a relevant distribution to a person (in this section referred to as the 'recorded owner') on the basis of the information on the share register of the company at a particular date,

(b) it subsequently transpires, as a result of an event (in this section referred to as the 'specified event'), being—

(i) the sale or purchase of,  
or

(ii) the happening, or failure to happen, of another event in relation to,

the shares or other securities in respect of which the relevant distribution was made, that another person (in this section referred to as the 'proper owner') had actually been entitled to receive the relevant distribution, and

(c) a person (in this section referred to as an 'accountable person'), being—

(i) the relevant stockbroker who has acted for the recorded owner in the specified event, or

(ii) if the recorded owner is a qualifying intermediary or an authorised withholding agent, that intermediary or agent,

is obliged to pay the relevant distribution to the proper owner or, as may be appropriate, to the relevant stockbroker who has acted for the proper owner in the specified

event, which action is in this section referred to as the 'settlement of the market claim'.

(3) Notwithstanding any other provision of this Chapter, where a market claim arises, then, if dividend withholding tax had not already been deducted out of the amount of the relevant distribution made by the company resident in the State to the recorded owner—

- (a) the accountable person shall, on the settlement of the market claim, deduct out of the amount of the relevant distribution dividend withholding tax in relation to the relevant distribution,
- (b) the proper owner or, as may be appropriate, the relevant stockbroker who has acted for the proper owner in the specified event shall allow such deduction on the receipt of the residue of the relevant distribution, and
- (c) the accountable person shall be acquitted and discharged of so much money as is represented by the deduction as if that amount of money had actually been paid to the proper owner or, as may be appropriate, to the relevant stockbroker who has acted for the proper owner in the specified event.

(4) Where subsection (3) applies, the accountable person shall, on the settlement of the market claim, give the proper owner or, as may be appropriate, the relevant stockbroker who has acted for the proper owner in the specified event a statement in writing showing—

- (a) the name and address of the accountable person,
- (b) the name and address of the company which made the relevant distribution,

(c) the amount of the relevant Pt.1 S.30  
distribution, and

(d) the amount of the dividend  
withholding tax deducted  
in relation to the relevant  
distribution.

(5) Dividend withholding tax which is required to be deducted by the accountable person under subsection (3) shall be paid by the accountable person to the Collector-General within 14 days of the end of the month in which that tax was required to be so deducted, and the dividend withholding tax so due shall be payable without the making of an assessment, but dividend withholding tax which has become so due may be assessed on the accountable person if that tax or any part of it is not paid on or before the due date.

(6) Dividend withholding tax which is required to be paid in accordance with subsection (5) shall be accompanied by a statement in writing from the accountable person making the payment showing—

(a) the name and address of that  
accountable person,

(b) the name and address of the  
company or companies  
which made the relevant  
distribution or distri-  
butions to which the pay-  
ment relates, and

(c) the amount of the dividend  
withholding tax included  
in the payment.

(7) An accountable person shall, as respects each year of assessment (being the year of assessment 1999-2000 or any subsequent year of assessment) in which subsection (3) applied in relation to the accountable person and not later than the 21st day of May following that year of assessment, make a return to the Revenue Commissioners showing—

(a) the name and address of the  
accountable person, and

(b) the following details in  
relation to each market  
claim to which subsection  
(3) applied in that year:

- (i) the name and address of the company resident in the State which made the relevant distribution to which the market claim relates,
- (ii) the amount of the relevant distribution concerned, and
- (iii) the amount of the dividend withholding tax in relation to the relevant distribution deducted by the accountable person.

(8) Subject to subsection (9), every return by an accountable person under subsection (7) shall be made in an electronic format approved by the Revenue Commissioners and shall be accompanied by a declaration made by the accountable person, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that the return is correct and complete.

(9) Where the Revenue Commissioners are satisfied that an accountable person does not have the facilities to make a return under subsection (7) in the format referred to in subsection (8), the return shall be made in writing in a form prescribed or authorised by the Revenue Commissioners and shall be accompanied by a declaration made by the accountable person, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that the return is correct and complete.

(10) (a) An accountable person shall keep and retain for a period of 6 years the accountable person's documents and records relating to market claims arising from relevant distributions made by companies resident in the State.

(b) An accountable person shall allow the Revenue Commissioners to inspect such documents and records and to verify the



accountable person's compliance with this section in any other manner considered necessary by the Commissioners." Pt.1 S.30

(2) Schedule 2A (inserted by the Finance Act, 1999) is amended—

(a) by the substitution in paragraph 2 of “paragraph 8(f) or 9(f)” for “paragraph 8(f) or subparagraph (f) or (g) of paragraph 9”,

(b) by the insertion of the following after paragraph 7:

*“Declaration to be made by approved athletic or amateur sports body*

7A. The declaration referred to in section 172C(2)(f)(ii) shall be a declaration in writing to the relevant person which—

- (a) is made by the person (in this paragraph referred to as ‘the declarer’) beneficially entitled to the relevant distributions in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the person beneficially entitled to the relevant distribution is a person referred to in section 172C(2)(f)(i),
- (e) contains the name and address of the person,
- (f) contains a statement that, at the time when the declaration is made, the relevant distributions in respect of which the declaration is made will be applied for the sole purpose of promoting athletic or amateur games or sports and are so treated by the Revenue Commissioners,
- (g) contains an undertaking by the declarer that, if the person mentioned in subparagraph (d) ceases to be an excluded person, the declarer will, by notice in writing, advise the relevant person in relation to the relevant distributions accordingly, and
- (h) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 8A of Part 6.

*Declaration to be made by designated stockbroker operating special portfolio investment account*

7B. The declaration referred to in section 172C(2)(g)(ii) shall be a declaration in writing to the relevant person which—

- (a) is made by the person (in this paragraph referred to as 'the declarer') beneficially entitled to the relevant distributions in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the person beneficially entitled to the relevant distribution is a person referred to in section 172C(2)(g)(i),
- (e) contains the name and tax reference number of the person,
- (f) contains a statement that, at the time when the declaration is made, the relevant distributions in respect of which the declaration is made will be applied as all or part of the relevant income or gains (within the meaning of section 838) of a special portfolio investment account and are so treated by the Revenue Commissioners,
- (g) contains an undertaking by the declarer that, if the person mentioned in subparagraph (d) ceases to be an excluded person, the declarer will, by notice in writing, advise the relevant person in relation to the relevant distributions accordingly, and
- (h) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 8A of Part 6.”,
- (c) by the substitution in paragraph 8(g) of the following for clause (ii):
- “(ii) a notice in writing from the Revenue Commissioners stating that the Commissioners have noted the contents of the certificate referred to in clause (i),”
- and
- (d) in paragraph 9—
- (i) by the substitution of the following for subparagraph (f):
- “(f) is accompanied by—
- (i) a certificate given by the tax authority of the relevant territory in which the company is, by virtue of the law of that territory, resident for the purposes of tax certifying that the company is so resident in that territory, and a certificate signed by the auditor of the company certifying that in

his or her opinion the company is not under the control (within the meaning of section 172D(3A)), whether directly or indirectly, of a person or persons who is or are resident in the State, Pt.1 S.30

(ii) a certificate signed by the auditor of the company certifying that in his or her opinion the company is a company which is not resident in the State and is under the control (within the meaning of section 172D(4)(a)), whether directly or indirectly, of a person or persons who, by virtue of the law of a relevant territory, is or are resident for the purposes of tax in such a relevant territory and who is or are, as the case may be, not under the control (within the meaning of section 172D(4)(b)), whether directly or indirectly, of a person who is, or persons who are, not so resident, or

(iii) a certificate signed by the auditor of the company certifying that in his or her opinion the principal class of the shares of the company or—

(I) where the company is a 75 per cent subsidiary (within the meaning of section 172D(5)) of another company, of that other company, or

(II) where the company is wholly-owned (within the meaning of section 172D(6)) by 2 or more companies, of each of those companies,

is substantially and regularly traded on one or more than one recognised stock exchange in a relevant territory or territories or on such other stock exchange as may be approved of by the Minister for Finance for the purposes of Chapter 8A of Part 6,”

and

(ii) by the deletion of subparagraph (g).

(3) *Subsection (1)(i)* shall apply as on and from 10 February 2000.

**31.**—As respects distributions made on or after 6 April 2000, section 153 (as amended by the Finance Act, 1999) of the Principal Act is amended—

Amendment of section 153 (distributions to certain non-residents) of Principal Act.

(a) in subsection (1), by the substitution of the following definition for the definition of “non-resident person”:

“ ‘qualifying non-resident person’, in relation to a distribution, means the person beneficially entitled to the distribution, being—

(a) a person, other than a company, who—

(i) is neither resident nor ordinarily resident in the State, and

(ii) is, by virtue of the law of a relevant territory, resident for the purposes of tax in the relevant territory,

or

(b) a company which is not resident in the State and—

(i) is, by virtue of the law of a relevant territory, resident for the purposes of tax in the relevant territory, but is not under the control, whether directly or indirectly, of a person or persons who is or are resident in the State,

(ii) is under the control, whether directly or indirectly, of a person or persons who, by virtue of the law of a relevant territory, is or are resident for the purposes of tax in the relevant territory and who is or are, as the case may be, not under the control, whether directly or indirectly, of a person who is, or persons who are, not so resident, or

(iii) the principal class of the shares of which, or—

(I) where the company is a 75 per cent subsidiary of another company, of that other company, or

(II) where the company is wholly-owned by 2 or more companies, of each of those companies,

is substantially and regularly traded on one or more than one recognised stock exchange in a relevant territory or territories or on such other stock exchange as may be approved of by the Minister for Finance for the purposes of this section;”

(b) by the insertion of the following subsection after subsection (1):

“(1A) For the purposes of paragraph (b)(i) of the definition of ‘qualifying non-resident person’, ‘control’ shall be construed in accordance with subsections (2) to (6) of section 432 as if in subsection (6) of that section for

'5 or fewer participators' there were substituted 'persons Pt.1 S.31 resident in the State'.',

(c) in subsection (2), by the substitution of "paragraph (b)(ii) of the definition of 'qualifying non-resident person' " for "paragraph (b)(i) of the definition of 'non-resident person' ",

(d) in subsection (3)—

(i) by the substitution of "paragraph (b)(iii)(I) of the definition of 'qualifying non-resident person' " for "paragraph (b)(ii)(II) of the definition of 'non-resident person' ", and

(ii) by the deletion of "subparagraph (iii) of",

(e) by the insertion of the following subsection after subsection (3):

"(3A) For the purposes of paragraph (b)(iii)(II) of the definition of 'qualifying non-resident person', a company (in this subsection referred to as an 'aggregated 100 per cent subsidiary') shall be treated as being wholly-owned by 2 or more companies (in this subsection referred to as the 'joint parent companies') if and so long as 100 per cent of its ordinary share capital is owned directly or indirectly by the joint parent companies, and for the purposes of this subsection—

(a) subsections (2) to (10) of section 9 shall apply as those subsections apply for the purposes of that section, and

(b) sections 412 to 418 shall apply with any necessary modifications as those sections would apply for the purposes of Chapter 5 of Part 12 if—

(i) section 411(1)(c) were deleted, and

(ii) the following subsection were substituted for subsection (1) of section 412:

'(1) Notwithstanding that at any time a company is an aggregated 100 per cent subsidiary (within the meaning assigned by section 153(3A)) of the joint parent companies (within the meaning so assigned), it shall not be treated at that time as such a subsidiary unless additionally at that time—

(a) the joint parent companies are between them beneficially entitled to not less than 100 per cent of any profits available for distribution to equity holders of the company, and

(b) the joint parent companies would be beneficially entitled between them to not less than 100 per cent

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of any assets of the company available for distribution to its equity holders on a winding-up.’.

(f) in subsection (4), by the substitution of “qualifying non-resident person” for “non-resident person”, and

(g) by the addition of the following subsection after subsection (5):

“(6) Where for any year of assessment the income of a person, being an individual who for that year of assessment is neither resident nor ordinarily resident in the State but is not a qualifying non-resident person, includes an amount in respect of a distribution made by a company resident in the State, then—

(a) notwithstanding section 15(2), income tax shall not be chargeable in respect of that distribution at a rate in excess of the standard rate, and

(b) the amount or value of the distribution shall be treated for the purposes of sections 237 and 238 as not brought into charge to income tax.”.

Amendment of section 700 (special computational provisions) of Principal Act.

**32.**—(1) Section 700 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

“(1A) For the purposes of subsection (1), ‘society’ shall include a credit union which is—

(a) registered as such under the Credit Union Act, 1997, or

(b) deemed to be so registered by virtue of section 5(3) of that Act.”.

(2) This section shall be deemed to have come into operation as on and from 6 April 1999.

Amendment of section 831 (implementation of Council Directive No. 90/435/EEC concerning the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States) of Principal Act.

**33.**—As respects distributions made on or after 6 April 2000, section 831 of the Principal Act is amended—

(a) in subsection (1)(a), by the substitution of the following definition for the definition of “company”:

“‘company’, other than in the expression ‘unlimited company’ in subsection (5A), means a company of a Member State;”.

and

(b) by the insertion of the following subsection after subsection (5) (inserted by the Finance Act, 1999):

“(5A) Subsection (5) shall apply to a distribution made by an unlimited company within the meaning of section 5(2)(c) of the Companies Act, 1963, as it would

apply if the unlimited company were a company of a Pt.1 S.33 Member State.”.

#### Chapter 4

#### *Income Tax, Corporation Tax and Capital Gains Tax*

**34.—(1)** Section 198 of the Principal Act is amended by the substitution for subsection (1) of the following:

Amendment of section 198 (certain interest not to be chargeable) of Principal Act.

“(1) (a) In this subsection—

‘arrangements’ means arrangements having the force of law by virtue of section 826;

‘relevant territory’ means—

- (i) a Member State of the European Communities other than the State, or
- (ii) not being such a Member State, a territory with the government of which arrangements have been made;

‘tax’, in relation to a relevant territory, means any tax imposed in that territory which corresponds to corporation tax in the State.

(b) For the purposes of this subsection, a company shall be regarded as being a resident of a relevant territory if—

- (i) in a case where the relevant territory is a territory with the government of which arrangements have been made, the company is regarded as being a resident of that territory under those arrangements, and
- (ii) in any other case, the company is by virtue of the law of the relevant territory resident for the purposes of tax in that territory.

(c) Notwithstanding any other provision of the Income Tax Acts but without prejudice to any charge under the Corporation Tax Acts on the profits of such a person—

(i) a company not resident in the State or a person not ordinarily resident in the State shall not be chargeable to income tax in respect of interest paid by—

(I) a company in the course of carrying on relevant trading operations (within the meaning of section 445 or 446), or

(II) a specified collective investment undertaking (within the meaning of section 734),

and

(ii) a company shall not be chargeable to income tax in respect of interest paid by a relevant person (within the meaning of section 246) in the ordinary course of a trade or business carried on by that person if the company—

(I) is not resident in the State, and

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(II) is regarded for the purposes of this subsection as being a resident of a relevant territory.”.

(2) *Subsection (1)* shall apply as respects interest paid in the year of assessment 2000-2001 and subsequent years of assessment.

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

**35.—**Part 11 of the Principal Act is amended—

(a) in subsection (2) of section 373—

(i) in paragraph (k), by the substitution of “mechanically propelled vehicle;” for “mechanically propelled vehicle.”, and

(ii) by the insertion of the following after paragraph (k):

“(j) £16,500, where the expenditure was incurred on or after 1 December 1999 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, in the definition of “relevant amount”—

(i) in paragraph (c), by the substitution of “£15,500”, for “£15,500, and”, and

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

“(d) in relation to qualifying expenditure incurred on or after 2 December 1998 and before 1 December 1999, £16,000,” and

(iii) by the insertion of the following after paragraph (d):

“(e) in relation to qualifying expenditure incurred on or after 1 December 1999, £16,500;”.

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

**36.—**Section 268 of the Principal Act is amended in subsection (1) by the substitution of the following for paragraph (i):

“(i) for the purposes of a trade which consists of the operation or management of a convalescent home for the provision of medical and nursing care for persons recovering from treatment in a hospital, being a hospital that provides treatment for acutely ill patients, and in respect of which convalescent home the health board in whose functional area the convalescent home is situated, is satisfied that the convalescent home satisfies the requirements of sections 4 and 6 of the Health (Nursing Homes) Act, 1990, and any regulations made under section 6 of that Act as if it were a nursing home within the meaning of section 2 of that Act.”.



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**37.**—Section 333 of the Principal Act is amended by the substitution in subsection (1)(a) of the following for the definition of “qualifying lease”:

“‘qualifying lease’ means, subject to subsection (4), a lease in respect of a qualifying premises granted in the qualifying period, or granted in any subsequent period ending on or before 31 December 1999, 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;”.

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Amendment of section 333 (double rent allowance in respect of rent paid for certain business premises) of Principal Act.

**38.**—Section 20(1)(c) of the Urban Renewal Act, 1998, is repealed.

Amendment of section 20 (amendment of provisions relating to Custom House Docks Area) of Urban Renewal Act, 1998.

**39.**—(1) Section 324 of the Principal Act is amended by the insertion after subsection (4) of the following:

Amendment of section 324 (double rent allowance in respect of rent paid for certain business premises) of Principal Act.

“(5) Notwithstanding any other provision of this section, subsection (2) shall not apply—

(a) in respect of rent payable, under a qualifying lease, for any part of a relevant rental period between 3 December 1998 and 31 December 2003 unless—

(i) in the case of a qualifying premises within an area or areas included in the definition of ‘the Custom House Docks Area’ by virtue of being described in an order of the Minister for Finance made under section 322(2), an agreement in writing or a contract in writing to secure the development of the building or structure, which comprises the qualifying premises or in which the qualifying premises is located, was entered into in the specified period, but by 2 December 1998, with the Dublin Docklands Development Authority (within the meaning of section 14 of the Dublin Docklands Development Authority Act, 1997), or

(ii) in the case of any other qualifying premises, an agreement in writing or a contract in writing to secure the development of the building or structure, which comprises the qualifying premises or in which the qualifying premises is located, was entered into in the specified period, but by 2 December 1998, and such development was wholly or mainly completed before 1 January 2000,

(b) in respect of rent payable, under a qualifying lease, for any part of a relevant rental period between 1 January 2004 and 31 December 2008, in the case of a qualifying premises to which subsection (2) applies by virtue of paragraph (a)(i),

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- (c) in respect of rent payable, under a qualifying lease, for any part of a relevant rental period between 1 January 2004 and 31 December 2008, in the case of a qualifying premises to which subsection (2) applies by virtue of paragraph (a) (ii), unless—
- (i) the construction or refurbishment of the qualifying premises, which is the subject of the qualifying lease, was completed prior to 1 April 1998, or
  - (ii) (I) the construction or refurbishment of the qualifying premises, which is the subject of the qualifying lease, commenced prior to 1 April 1998, and
  - (II) such premises was occupied by a lessee, under a qualifying lease, prior to 9 February 1999,
- or
- (d) in respect of rent payable, under a qualifying lease, for any part of a relevant rental period after 31 December 2008.”.

(2) This section shall be deemed to have applied as on and from 3 December 1998.

Amendment of Part 9 (principal provisions relating to relief for capital expenditure) of Principal Act.

**40.**—Part 9 of the Principal Act is amended—

- (a) in section 278(2), by the deletion of “and, where it is so made, section 304(4) shall not apply”;
  - (b) in section 300—
    - (i) in subsection (1), by the substitution of “section 284(6) or 298” for “section 298”, and
    - (ii) by the insertion of the following subsection after subsection (3)—
 

“(4) Any wear and tear allowance made to any person under or by virtue of section 284(6) shall be made in charging that person’s income under Case V of Schedule D.”,
  - (c) in section 304—
    - (i) in subsection (1) by the deletion of “as it applies”;
    - (ii) in subsection (4)—
      - (I) by the deletion of “Subject to section 278(2),”;
      - (II) by the insertion of “, or in charging profits or gains of any description, as the case may be,” after “in taxing a trade”, and
      - (III) by the insertion of “or in charging the profits or gains, as the case may be,” after “in taxing the trade”;
- and

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(iii) in subsection (6) by the insertion of the following Pt.1 S.40 paragraph after paragraph (b):

“(c) Subsection (4) shall not apply as respects an allowance given by means of discharge or repayment of tax or in charging income under Case V of Schedule D.”,

(d) in section 305(1)—

(i) in paragraph (a) by the insertion of “or in charging income under Case V of Schedule D” after “discharge or repayment of tax”, and

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

“(b) (i) 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 (after deducting or setting off any allowances for earlier years), then 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 shall be deducted from or set off—

(I) in the case of an individual—

(A) against the individual’s other income for that year of assessment, or

(B) where the individual, or, being a husband or wife, the individual’s spouse, is assessed to tax in accordance with section 1017, firstly, against the individual’s other income for that year of assessment and, subsequently, against the income of the individual’s husband or wife, as the case may be, for that year of assessment,

(II) in the case of a person other than an individual, against the person’s other income for that year of assessment.

(ii) Where an election is made in accordance with subparagraph (i), the excess shall be deducted from or set off against the income referred to in subclause (A) or (B) of clause (I) or in clause (II), as the case may be, and tax shall be discharged or repaid accordingly and only the balance, if any, of the amount of the excess over all the income referred to in subclause (A) or (B) of clause (I) or in clause (II), as the case may be, for that year of assessment shall be deducted from or set off against the person’s income of the specified class for succeeding years.”,

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(e) in section 405(1) by the substitution of the following for paragraph (a):

“(a) sections 305(1)(b), 308(4) and 420(2) shall not apply as respects that allowance, and”,

and

(f) by the substitution of the following section for section 406:

“Restriction on use of capital allowances on fixtures and fittings for furnished residential accommodation. 406.—Where a person incurs capital expenditure of the type to which subsection (7) of section 284 applies and an allowance is to be made in respect of that expenditure under that section, sections 305(1)(b), 308(4) and 420(2) shall not apply as respects that allowance.”.

Capital allowances for computer software.

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

(a) in section 288—

(i) by the substitution in subsection (1)(d) of “that machinery or plant” for “the computer software concerned”,

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

“(3A) Where, in relation to an event referred to in subsection (1)(d), a balancing allowance or balancing charge is to be made to or, as the case may be, on a person for the chargeable period related to that event and following that event, the person retains an interest in the machinery or plant, then, for the purposes of this Chapter—

(a) the amount of capital expenditure still unallowed at the time of the event, which is to be taken into account in calculating the balancing allowance or balancing charge, shall be such portion of the unallowed expenditure relating to the machinery or plant in question as the sale, insurance, salvage or compensation moneys bear to the aggregate of those moneys and the market value of the machinery or plant which remains undisposed of, and the balance of the unallowed expenditure shall be attributed to the machinery or plant which remains undisposed of, and

(b) the amount of capital expenditure incurred on the machinery or plant in question shall be treated as reduced by such portion of that expenditure as the sale, insurance, salvage or compensation moneys bear to the aggregate of those moneys and the market value of the machinery or plant which remains undisposed of.”,

and

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(iii) by the insertion in subsection (4) after paragraph (b) Pt.1 S.41  
of the following:

“(c) Where subsection (3A) applies, the amount of any allowances referred to in paragraph (b) made in respect of the machinery or plant in question shall, for the purposes of this Chapter, be apportioned so that:

(i) such portion of those allowances as the sale, insurance, salvage or compensation moneys bear to the aggregate of those moneys and the market value of the machinery or plant which remains undisposed of, shall be attributed to the grant of the right to use or otherwise deal with, referred to in subsection (1)(d), and

(ii) the balance of those allowances shall be attributed to the machinery or plant which remains undisposed of.”,

and

(b) by the insertion in section 318 after paragraph (a) of the following:

“(aa) as respects machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, where the event is the grant of a right to use or otherwise deal with the whole or part of that machinery or plant, the consideration in money or money’s worth received by that person for the grant of the right,”.

(2) This section shall apply as on and from 29 February 2000.

**42.—(1)** Chapter 3 of Part 10 of the Principal Act is amended—

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.

(a) in section 339—

(i) in subsection (1) by the substitution in the definition of “the relevant local authority” of “paragraph (a) or (e) of subsection (2)” for “subsection (2)(a)”, and

(ii) by the insertion in subsection (2), of the following after paragraph (d):

“(e) (i) Where, in relation to the construction or refurbishment of a qualifying building within the meaning of section 343, the relevant local authority gives a certificate in writing on or before 31 May 2000 to the person constructing or refurbishing the qualifying building stating that it is satisfied that not less than 50 per cent of the total cost of the qualifying building and the site thereof had been incurred on or before 31 December 1999, then the reference in paragraph (b) of the definition of ‘qualifying

period' in subsection (1) to the period ending on the 31st day of December, 1999, shall be construed as a reference to the period ending on 31 December 2000.

- (ii) 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.”,

(b) in section 340(2), by the substitution of the following for subparagraph (ii):

“(ii) as respects any such area so described in the order, the reference in paragraph (a) of the definition of ‘qualifying period’ in section 339(1) to the period commencing on the 1st day of August, 1994, and ending on the 31st day of July, 1997, 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 1 August 1994 or end after—

(I) 31 December 1999, or

(II) 31 December 2000, where in relation to the construction or refurbishment of a qualifying building within the meaning of section 343, the relevant local authority gives a certificate in writing on or before 31 May 2000 to the person constructing or refurbishing the qualifying building stating that it is satisfied that not less than 50 per cent of the total cost of the qualifying building and the site thereof had been incurred on or before 31 December 1999 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.”,

(c) in section 343—

- (i) by the insertion in subsection (1), before the definition of “the Minister” of the following:

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

- (ii) by the substitution in subsection (7)(a) of “subsections (8), (9) and (11)” for “subsections (8) and (9)”, and

- (iii) by the insertion after subsection (10) of the following subsection:

“(11) Notwithstanding the preceding provisions of this section, this section shall not apply in respect of expenditure incurred on the construction or refurbishment of a qualifying building, the site of which

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is wholly within an area described in an order Pt.1 S.41 referred to in section 340(2)(i)—

(a) where a property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and

(b) either the person referred to in paragraph (a) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the qualifying building concerned.”,

(d) in section 344(1)—

(i) in the definition of “qualifying period”—

(I) by the substitution in paragraph (b) of “30 September 1999” for “the 30th day of June, 1999”, and

(II) by the substitution of the following for paragraph (c):

“(c) 31 December 2002, where, in relation to the construction or refurbishment of the qualifying multi-storey car park concerned (not being a qualifying multi-storey car park any part of the site of which is within either of the county boroughs of Cork or Dublin), the relevant local authority gives a certificate in writing on or before 31 December 2000 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 on or before 30 September 2000 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

(ii) in the definition of “the relevant local authority” by the substitution of the following for paragraph (b):

“(b) in respect of an administrative county, the council of the county concerned.”,

and

(e) in section 345(1A)(b), by the substitution of “30 September 1998” for “the 30th day of June, 1998”.

(2) This section shall apply as on and from 1 July 1999.

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Amendment of  
section 360  
(interpretation  
(Chapter 5)) of Part  
10 of Principal Act.

**43.—**(1) Section 360(1) of the Principal Act is amended in the definition of “qualifying period” (inserted by the Finance Act, 1999) by the substitution of “15 per cent” for “50 per cent”.

(2) This section shall apply as on and from 6 April 1999.

Amendment of  
Chapter 7  
(qualifying areas) of  
Part 10 of Principal  
Act.

**44.—**(1) Chapter 7 of Part 10 of the Principal Act is amended—

(a) in section 372A(1)—

(i) by the insertion before the definition of “qualifying area” of the following:

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

(ii) in the definition of “qualifying period”, by the substitution of “31 December 2002;” for “the 31st day of July, 2001;”,

(b) in section 372B(1)—

(i) by the substitution of the following for paragraph (b):

“(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

(ii) in paragraph (c), by the substitution of the following for the words from “or end after—” to the end of the paragraph:

“or end after 31 December 2002.”,

(c) in section 372C—

(i) by the substitution of the following for subsection (1):

“(1) In this section ‘building or structure to which this section applies’ means a building or structure or part of 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).”, and

(ii) in subsection (2)(d), by the substitution of “50 per cent” for “25 per cent”,

(d) in section 372D—

(i) in subsection (1), by the insertion after “means a building or structure” of “or part of a building or structure”,

(ii) in subsection (2)(a), by the substitution of “subsections (3) to (5)” for “subsections (3) to (6A)”,



(iii) in subsection (4)(b)—

(I) in subparagraph (i) by the deletion of “and”, and

(II) by the substitution of the following subparagraphs for subparagraph (ii):

“(ii) 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

(iii) subsections (3) to (7) of that section were deleted.”,

and

(iv) by the deletion of subsections (6) and (6A),

(e) in section 372G(1), in paragraph (a) and paragraph (b) of the definition of “conversion expenditure” by the insertion of “or part of a building” after “a building”,

(f) in section 372H(1), in the definition of “specified building” by the insertion of “or part of a building” after “a building”,

(g) in section 372I(2), by the insertion of the following paragraph after paragraph (a):

“(aa) Notwithstanding paragraph (a), where the individual, or, being a husband or wife, the individual’s spouse, is assessed to tax in accordance with section 1017, the individual shall, except where section 1023 applies, be entitled to have the deduction, to which he or she is entitled under paragraph (a), made from his or her total income and the total income of his or her spouse, if any.”,

and

(h) by the substitution of the following section for section 372K:

“Non-application of relief in certain cases and provision against double relief.

372K.—(1) Notwithstanding any other provision of this Chapter, sections 372C and 372D shall not apply—

(a) in respect of expenditure incurred on the construction or refurbishment of a building or structure or a qualifying premises—

- (i) where a property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and
  - (ii) either the person referred to in subparagraph (i) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the building, structure or premises concerned,
- (b) in respect of expenditure incurred on the construction or refurbishment of a building or structure or a qualifying premises where such building or structure or premises is in use for the purposes of a trade, or any activity treated as a trade, carried on by the person who is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure and such trade or activity is carried on wholly or mainly—
- (i) in the sector of agriculture, including the production, processing and marketing of agricultural products,
  - (ii) in the coal industry, fishing industry or motor vehicle industry, or
  - (iii) in the transport, steel, ship-building, synthetic fibres or financial services sectors,

or

- (c) in relation to any building or structure or qualifying premises which is provided for the purposes of a project, the regional aid for which is limited under the 'Multisectoral framework on regional aid for large investment projects'<sup>1</sup> prepared by the Commission of the European Communities.

(2) For the purposes of sections 372C, 372D, 372G and 372H, where the site of any part of a building or structure is situate outside the boundary of a qualifying area and where expenditure incurred or treated as

<sup>1</sup>O.J. No. C 107, 7.4.1998, p.7

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having been incurred in the qualifying period Pt.1 S.44  
is attributable to the building or structure in  
general, such an amount of that expenditure  
shall be deemed to be attributable to the part  
which is situate outside the boundary of the  
qualifying area as bears to the whole of that  
expenditure the same proportion as the floor  
area of the part situate outside the boundary  
of the qualifying area bears to the total floor  
area of the building or structure.

(3) 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 build-  
ing, structure or premises, relief shall not be  
given in respect of that expenditure or that  
rent under any other provision of the Tax  
Acts.”.

(2) This section shall apply as on and from 1 July 1999.

**45.—(1)** Chapter 8 of Part 10 of the Principal Act is amended—

Amendment of  
Chapter 8  
(qualifying rural  
areas) of Part 10 of  
Principal Act.

(a) in section 372L—

(i) by the insertion before the definition of “qualifying  
period” of the following:

“ ‘property developer’ means a person carrying on a  
trade which consists wholly or mainly of the con-  
struction or refurbishment of buildings or structures  
with a view to their sale;”, and

(ii) in the definition of “qualifying period”, by the substi-  
tution of “31 December 2002” for “the 31st day of  
December, 2001” in each place where it occurs,

(b) in section 372M, in subsection (2)(d), by the substitution of  
“50 per cent” for “25 per cent”,

(c) in section 372N—

(i) in subsection (2)(a), by the substitution of “subsec-  
tions (3) to (5)” for “subsections (3) to (6B)”,

(ii) in subsection (4)(b)—

(I) in subparagraph (i) by the deletion of “and”, and

(II) by the substitution of the following subparagraphs  
for subparagraph (ii):

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

‘(b) As respects any qualifying expen-  
diture, 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

(iii) subsections (3) to (7) of that section were deleted.”,

and

(iii) by the deletion of subsections (6), (6A) and (6B),

(d) in section 372RA(2), by the insertion of the following paragraph after paragraph (a):

“(aa) Notwithstanding paragraph (a), where the individual, or, being a husband or wife, the individual’s spouse, is assessed to tax in accordance with section 1017, the individual shall, except where section 1023 applies, be entitled to have the deduction, to which he or she is entitled under paragraph (a), made from his or her total income and the total income of his or her spouse, if any.”,

and

(e) by the substitution of the following section for section 372T:

“Non-application of relief in certain cases and provision against double relief. 372T.—(1) Notwithstanding any other provision of this Chapter sections 372M and 372N shall not apply—

(a) in respect of expenditure incurred on the construction or refurbishment of a building or structure or a qualifying premises—

(i) where a property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and

(ii) either the person referred to in subparagraph (i) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the building, structure or premises concerned,

(b) in respect of expenditure incurred on the construction or refurbishment of a building or structure or qualifying premises where such building or structure or premises is in use for the purposes of a trade, or any activity treated as a trade, carried on by the person who is entitled to the relevant interest, within the

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meaning of section 269, in Pt.1 S.45  
relation to that expenditure and  
such trade or activity is carried  
on wholly or mainly—

- (i) in the sector of agriculture,  
including the production,  
processing and marketing  
of agricultural products,
- (ii) in the coal industry, fishing  
industry or motor vehicle  
industry, or
- (iii) in the transport, steel, ship-  
building, synthetic fibres or  
financial services sectors,

or

- (c) in relation to any building or struc-  
ture or qualifying premises  
which is 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.”.

(2) This section shall apply as on and from 1 July 1999.

**46.**—Chapter 9 of Part 10 of the Principal Act is amended—

Amendment of  
Chapter 9 (park  
and ride facilities  
and certain related  
developments) of  
Part 10 of Principal  
Act.

- (a) in section 372Y(2), by the insertion of the following after paragraph (a):

“(aa) Notwithstanding paragraph (a), where the individual, or, being a husband or wife, the individual’s spouse, is assessed to tax in accordance with section 1017, the individual shall, except where section 1023 applies, be entitled to have the deduction, to which he or she is entitled under paragraph (a), made from his or her total income and the total income of his or her spouse, if any.”.

and

- (b) in section 372Z(10), by the substitution of “section 372X(6)” for “section 372X(5)”.

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Amendment of section 823 (deduction for income earned outside the State) of Principal Act.

**47.—**(1) Section 823 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “11 consecutive days” for “14 consecutive days” in paragraph (a) of the definition of “qualifying day”,
  - (b) in subsection (2A), by the substitution of “11 consecutive days” for “14 consecutive days” in paragraph (b), and
  - (c) in subsection (3), by the substitution of “whichever is the lesser; but that amount, or the aggregate of those amounts where there is more than one such office or employment, shall not exceed £25,000.” for “whichever is the lesser.”.
- (2) (a) Paragraphs (a) and (b) of subsection (1) shall apply as on and from 29 February 2000, and
- (b) paragraph (c) of subsection (1) shall apply—
- (i) as respects the year of assessment 2000-2001 and subsequent years of assessment, and
  - (ii) as respects the year of assessment 1999-2000, as if the reference to “that amount, or the aggregate of those amounts where there is more than one such office or employment” were a reference to “such portion of that amount, or such portion of the aggregate of those amounts where there is more than one such office or employment, which arises by virtue of income, profits or gains accruing or paid on or after 29 February 2000”.

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

**48.—**(1) The Principal Act is amended in section 481—

- (a) in subsection (1)—
- (i) by the substitution for the definition of “qualifying company” of the following definition:
 

“‘qualifying company’ means a company which—

    - (a) (i) is incorporated and resident in the State, or
    - (ii) is carrying on a trade in the State through a branch or agency,
  - (b) exists solely for the purposes of the production and distribution of only one qualifying film, and
  - (c) does not contain in its name—
    - (i) registered under either or both the Companies Acts, 1963 to 1999, and the Registration of Business Names Act, 1963, or
    - (ii) registered under the law of the territory in which it is incorporated,

the words ‘Ireland’, ‘Irish’, ‘Éireann’, ‘Éire’ or ‘National’;”

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- (ii) by the substitution for the definition of “qualifying period” of the following definition:

“‘qualifying period’, in relation to an allowable investor company and a qualifying individual, means the period commencing on 23 January 1996, and ending on 5 April 2005;”

and

- (b) by the substitution for subsection (2)(c) of the following:

“(c) The specified percentage shall not exceed—

- (i) where the total cost of production of the film does not exceed £4,000,000, 66 per cent,
- (ii) where the total cost of production of the film exceeds £4,000,000 and does not exceed £5,000,000, the amount per cent (in this subparagraph referred to as the ‘allowable percentage’) where the amount of the allowable percentage is determined by the formula—

$$66 - \frac{(11 \times E)}{\pounds 1,000,000}$$

where E is the excess of the total cost of production of the film over £4,000,000, and

- (iii) where the total cost of production of the film exceeds £5,000,000, 55 per cent;

but, in any case to which subparagraph (i), (ii) or (iii) relates, the total cost of production of the film which is met by relevant investments shall not exceed £8,250,000.”.

(2) This section shall have effect from such day as the Minister for Finance may appoint by order.

**49.**—With effect from the passing of this Act, section 482 of the Principal Act is amended—

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

- (a) in subsection (1)(a), by the substitution of “1957;” for “1957.” in the definition of “tourist accommodation facility” and the insertion of the following after that definition:

“‘weekend day’ means a Saturday or a Sunday.”,

- (b) in subsection (5)(b), by the substitution of the following for subparagraph (ii):

“(ii) subject to temporary closure necessary for the purposes of the repair, maintenance or restoration of the building, access is so afforded for a period of not less than 60 days in any year, and—

- (I) such period shall include, as respects determinations made by the Revenue Commissioners in accordance with paragraph (a)(ii)—

(A) before the passing of the *Finance Act, 2000*, not less than 40 days, and

(B) on or after the passing of the *Finance Act, 2000*, not less than 40 days, of which not less than 10 are weekend days,

during the period commencing on 1 May and ending on 30 September, and

(II) in respect of each such period, on each day concerned access is afforded in a reasonable manner and at reasonable times for a period, or periods in the aggregate, of not less than 4 hours, and”

and

(c) by the substitution of the following for subsection (8):

“(8) Notwithstanding that the Revenue Commissioners have before the passing of the *Finance Act, 2000*, made a determination in accordance with subsection (5)(a)(ii) that a building is a building to which reasonable access is afforded to the public, relief under subsection (2), in relation to qualifying expenditure incurred in a chargeable period beginning on or after 1 January 1995, in respect of the building shall not be given unless the person who owns or occupies the building satisfies the Revenue Commissioners on or before 1 January in the chargeable period that it is a building to which reasonable access is afforded to the public having regard to—

(a) in a case where the qualifying expenditure is incurred in a chargeable period beginning before 1 October 2000, subsection (5)(b)(ii) (I)(A), and

(b) in a case where the qualifying expenditure is incurred in a chargeable period beginning on or after 1 October 2000, subsection (5)(b)(ii) (I)(B).”.

Amendment of section 485 (relief for gifts to third-level institutions) of Principal Act.

**50.**—As on and from 6 April 2000, section 485 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the insertion before the definition of “approved institution” of the following definition:

“ ‘approved development fund’ means a fund in respect of which the Minister has given a certificate under subsection (2) which certificate has not been revoked under that subsection;”

(ii) by the insertion after the definition of “approved project” of the following definition:

“ ‘development fund’ means a fund established by an approved institution, in accordance with the relevant guidelines, for the purpose of enabling it to carry out one or more projects;”

(iii) in the definition of “project”—



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- (I) in paragraph (c), by the substitution of “relevant guidelines,” for “guidelines referred to in subsection (2) (a) (i), and”, Pt.1 S.50
- (II) in paragraph (d), by the substitution of “skills needs, and” for “skills needs;”, and
- (III) by the insertion after paragraph (d) of the following paragraph:
- “(e) any other project approved of for the purpose of this section by the Minister with the consent of the Minister for Finance;”,
- (iv) by the substitution of the following for the definition of “relevant gift”:

“ ‘relevant gift’ means a gift of money—

- (a) to an approved institution for the sole purpose of funding an approved project or an approved development fund, as the case may be,
- (b) that is or will be applied by the approved institution for the purpose of funding the approved project or the approved development fund, as the case may be, and
- (c) that, 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 section 792 applies or is not a gift of money to which section 484 applies; and”,

and

- (v) by the insertion after the definition of “relevant gift” of the following definition:

“ ‘relevant guidelines’ has the meaning assigned to it by subsection (14).”,

(b) in subsection (2)—

- (i) by the substitution of the following for subparagraph (a) (i):

“(i) The Minister, on the making of an application by an approved institution, may, in accordance with the relevant guidelines, give a certificate to that institution stating that a project or a development fund, as the case may be, may be treated as an approved project or an approved development fund, as the case may be, for the purposes of this section.”,

(ii) in subparagraph (a)(ii), by the substitution of “relevant guidelines” for “guidelines referred to in subparagraph (i)”;

(iii) by the deletion of subparagraph (a)(iii), and

(iv) by the substitution of the following for paragraph (c):

“(c) Where an approved institution fails to comply with any of the conditions to which a certificate given to it under paragraph (a) is subject by virtue of paragraph (b), the Minister may, by notice in writing given to the institution, revoke the certificate, and the project or the development fund, as the case may be, shall cease to be an approved project or an approved development fund, as the case may be, as respects any gifts made to the institution after the date of the Minister’s notice.”;

(c) by the substitution of the following for subsections (6) and (7):

“(6) (a) For the purposes of income tax for the year of assessment in which a person makes a relevant gift, the net amount of the gift shall be deducted from or set off against any income of the person chargeable to income tax for that year and tax shall where necessary be discharged or repaid accordingly, and the total income of the person or, where the person’s spouse is assessed to income tax in accordance with section 1017, the total income of the spouse shall be calculated accordingly.

(b) Where, in any year of assessment owing to an insufficiency of total income, relief cannot be given by virtue of paragraph (a) for all or a part of the relevant gift (in this subsection referred to as the ‘unrelieved amount’), the unrelieved amount shall be carried forward to the next year of assessment and shall be treated for the purposes of the relief as a relevant gift made in that next year.

(c) Where, owing to an insufficiency of total income, relief cannot be given by virtue of paragraph (b) for any part of the unrelieved amount, that part of the unrelieved amount shall be carried forward to the next year of assessment following the year referred to in paragraph (b) and treated as a relevant gift made in that next year.

(d) Where, owing to an insufficiency of total income, relief cannot be given by virtue of paragraphs (b) and (c) in respect of any part of an unrelieved amount, that part of the unrelieved amount shall be

carried forward to the next year of assessment following the year referred to in paragraph (c) and treated as a relevant gift made in that next year. Pt.1 S.50

- (e) Relief under this section shall be given to an individual for any year of assessment in the following order:
- (i) in the first instance, in respect of an amount carried forward from an earlier year of assessment in accordance with paragraph (b), (c) or (d) and, in respect of such an amount so carried forward, for an earlier year of assessment in priority to a later year of assessment; and
  - (ii) only thereafter, in respect of any other amount for which relief is to be given in that year of assessment.
- (7) (a) Where a relevant gift is made by a company, the net amount of the gift shall, for the purposes of corporation tax, be deemed to be a loss incurred by the company in a separate trade in the accounting period of the company in which the gift is made.
- (b) Where all or part of the relevant gift which is deemed to be a loss of a separate trade in the accounting period in which the gift is made has not been set off against profits of the company for that accounting period by virtue of section 396(2), or surrendered to another company by virtue of section 420(1), so much of the relevant gift as has not been so set off or surrendered, as the case may be, shall be carried forward and treated as a loss incurred by the company in a separate trade in the next succeeding accounting period and so on until all of the relevant gift has been set off or surrendered, as the case may be, but no such loss shall be so carried forward to an accounting period which ends more than 3 years after the end of the accounting period in which the relevant gift giving rise to the loss was made.”,
- (d) in subsection (8), by the substitution of “£250” for “£1,000”,
- (e) in subsection (9), by the insertion after “each approved project” of “or approved development fund, as the case may be”,
- (f) in subsection (10), by the substitution of the following for paragraph (b):

“(b) a project is an approved project,

(bb) a development fund is an approved development fund, or”,

(g) in subsection (11)—

(i) by the substitution of the following for subparagraph (a) (iv):

“(iv) the project or the development fund, as the case may be, in respect of which the relevant gift has been made is an approved project or an approved development fund, as the case may be,”

and

(ii) by the substitution of the following for subparagraph (b) (vi):

“(vi) particulars of the approved project or the approved development fund, as the case may be, in respect of which the relevant gift has been made,”

and

(h) by the insertion after subsection (11) of the following subsections:

“(12) The Minister may delegate his functions under this section to the Higher Education Authority.

(13) The Higher Education Authority, when required to do so by notice in writing from the Minister or the Minister for Finance, as the case may be, shall, within the time limited by the notice, prepare and deliver to that Minister a report for such period and containing such particulars as that Minister may specify.

(14) In this section ‘relevant guidelines’ means guidelines issued for the purposes of this section by the Minister with the consent of the Minister for Finance and, without prejudice to the generality of the foregoing, such guidelines may include provisions in relation to all or any one or more of the following:

(i) the certification of projects or development funds, as the case may be, to be treated as approved projects or approved development funds, as the case may be;

(ii) the payment for the benefit of the Exchequer by an approved institution of the value of the tax relief granted in respect of a relevant gift made to it to the extent that that gift has not been used by it for the purposes of an approved project or an approved development fund, as the case may be;

(iii) the provision of particulars in relation to the amount of relevant gifts received by an approved institution and the application of those gifts; and

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- (iv) the provision of such other information as the Minister may reasonably require for the purposes of this section.”. Pt.1 S.50

51.—The Principal Act is amended—

Savings-related  
share option  
schemes.

(a) in Chapter 3 (inserted by the Finance Act, 1999) of Part 17—

- (i) in section 519A by the insertion after subsection (3) of the following:

“(3A) (a) Where, in exercising a right in accordance with the provisions of the scheme at a time when it is approved, the individual acquires scheme shares from a relevant body, neither a chargeable gain nor an allowable loss shall accrue to the relevant body on the disposal of the scheme shares, and the individual shall, notwithstanding section 547(1)(a), be deemed for the purposes of the Capital Gains Tax Acts to have acquired the scheme shares for a consideration equal to the amount paid for their acquisition.

(b) In this subsection and in section 519B—

‘relevant body’ means a trust or a company which exists for the purpose of acquiring and holding scheme shares;

‘schemes shares’ has the meaning assigned to it by paragraph 10 of Schedule 12A.”,

and

(ii) in section 519B—

(I) in subsection (1), by the substitution for “This section shall apply” of “Subject to subsection (2A) this section shall apply”, and

(II) by the insertion after subsection (2) of the following:

“(2A) Notwithstanding any provision of the Tax Acts, any sum expended by the company, either directly or indirectly, to enable a relevant body to acquire scheme shares shall not be included—

(a) in the sums to be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or

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(b) if the company is an investment company within the meaning of section 83 or a company in the case of which that section applies by virtue of section 707, in the sums to be deducted under section 83(2) as expenses of management in computing the profits of the company for the purposes of corporation tax.”,

and

(b) in Schedule 12A—

(i) in paragraph 1(1)—

(I) by the substitution in the definition of “shares” of “stock;” for “stock.”, and

(II) by the insertion after the definition of “shares” of the following:

“‘specified age’ means an age that is not less than 60 years and not more than pensionable age (within the meaning of section 2 of the Social Welfare (Consolidation) Act, 1993).”,

(ii) by the insertion after paragraph 2(4) of the following:

“(5) The scheme shall indicate the specified age for the purposes of the scheme.”,

(iii) in paragraph 20(b), by the substitution of “the specified age” for “pensionable age (within the meaning of section 2 of the Social Welfare (Consolidation) Act, 1993)”, and

(iv) in paragraph 21 by the substitution of “the specified age” for “pensionable age”.

Reduction in tax on certain transactions in land.

**52.—(1)** Chapter 1 of Part 22 of the Principal Act is amended by the insertion after section 644 of the following sections:

“Relief from income tax in respect of income from dealing in residential development land.

**644A.—(1)** In this section—

‘basis period’ has the same meaning as in section 127(1);

‘construction operations’, in relation to residential development land, means operations of any of the descriptions referred to in the definition of ‘construction operations’ in section 530(1) other than such operations as consist of—

(a) the demolition or dismantling of any building or structure on the land,

(b) the construction or demolition of any works forming part of the land,

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being roadworks, water mains, Pt.1 S.52  
wells, sewers or installations for the  
purposes of land drainage, or

- (c) any other operations which are preparatory to residential development on the land other than the laying of foundations for such development;

'residential development' includes any development which is ancillary to the development and which is necessary for the proper planning and development of the area in question;

'residential development land' means land—

- (a) disposed of to—

- (i) a housing authority (within the meaning of section 23 of the Housing (Miscellaneous Provisions) Act, 1992),
- (ii) the National Building Agency Limited (being the company referred to in section 1 of the National Building Agency Limited Act, 1963), or
- (iii) a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992,

which land is specified in a certificate in writing given by a housing authority or the National Building Agency Limited, as appropriate, as land being required for the purposes of the Housing Acts, 1966 to 1998,

- (b) in respect of which permission for residential development has been granted under section 26 of the Local Government (Planning and Development) Act, 1963, and such permission has not ceased to exist, or
- (c) which is, in accordance with a development objective (as indicated in the development plan of the planning authority concerned), for use solely or primarily for residential purposes.

(2) This section applies to profits or gains being—

- (a) profits or gains arising from dealing in or developing residential development land in the course of a business consisting of or including dealing in or developing land which is,

or is regarded as, a trade within Schedule D or a part of such a trade, or

- (b) any gain of a capital nature arising from the disposing of residential development land which, by virtue of section 643, constitutes profits or gains chargeable to tax under Case IV of Schedule D.

(3) Notwithstanding any other provision of the Tax Acts and subject to subsections (4) and (5)—

- (a) to the extent to which profits or gains of a basis period for a year of assessment consist of profits or gains to which this section applies, those profits or gains—

(i) shall be chargeable to income tax for that year at the rate of 20 per cent, and

(ii) shall not be reckoned in computing total income for that year for the purposes of the Income Tax Acts,

and

- (b) the provisions of sections 187 and 188, and the reductions specified in Part 2 of the Table to section 458 shall not apply as regards income tax so charged.

(4) For the purposes of this section—

- (a) where a trade consists partly of dealing in residential development land and partly of other operations or activities, the part of the trade consisting of dealing in residential development land and the part of the trade consisting of other operations or activities shall each be treated as a separate trade, and the total amount receivable from sales made and services rendered in the course of the trade, and of expenses incurred in the trade, shall be apportioned to each such part,

- (b) in computing the profits or gains to which this section applies, no account shall be taken, in determining those profits or gains, of that part, if any, of profits or gains which are attributable to construction operations on the land, and



- (c) where, in order to give effect to the provisions of this section, an apportionment of profits and gains, amounts receivable or expenses incurred is required to be made, such apportionment shall be made in a manner that is just and reasonable. Pt.1 S.52

(5) This section shall not apply to profits or gains arising to a person in a year of assessment if that person so elects by notice in writing to the inspector on or before the specified return date for the chargeable period (within the meaning of section 950).

Relief from corporation tax in respect of income from dealing in residential development land.

644B.—(1) In this section—

‘excepted trade’ has the same meaning as in section 21A;

‘residential development’ and ‘residential development land’ have the same meaning as each has in section 644A.

(2) (a) Where in an accounting period a company carries on an excepted trade the operations or activities of which consist of or include dealing in land which, at the time at which it is disposed of by the company, is residential development land, the corporation tax payable by the company for the accounting period, in so far as it is referable to trading income from dealing in residential development land, shall be reduced by one-fifth.

(b) For the purposes of paragraph (a)—

(i) the corporation tax payable by a company for an accounting period which is referable to trading income from dealing in residential development land shall be such amount as bears to the amount of corporation tax for the period referable to income of an excepted trade the same proportion as—

(I) the amount receivable by the company in the accounting period from the disposal in the course of the excepted trade of residential development land, exclusive of so much of that amount as is attributable to construction operations (within the meaning of section 21A) carried out

by or for the company on the land, bears to

- (II) the total amount receivable by the company in the accounting period, exclusive of so much of that amount as is attributable to construction operations (within the meaning of section 21A) carried out by or for the company on land disposed of by it, in the course of the excepted trade,

and

- (ii) corporation tax referable to income from an excepted trade for an accounting period shall be such sum as bears to the amount of corporation tax charged for the period in accordance with section 21A at the rate of 25 per cent the same proportion as the amount of the company's profits treated under section 21A as consisting of income from the excepted trade bears to the total amount of the profits of the company for the period so charged at the rate of 25 per cent.
- (3) (a) Where in an accounting period income of a company which is chargeable under Case IV of Schedule D by virtue of section 643 consists of or includes an amount in respect of a gain obtained from disposing of land which, at the time of its disposal, is residential development land, the corporation tax payable by the company for the accounting period, in so far as it is referable to that gain, shall be reduced by one-fifth.
- (b) For the purposes of paragraph (a)—
- (i) the corporation tax payable by a company for an accounting period which is referable to a gain from disposing of residential development land shall be such amount as bears to the amount of corporation tax for the accounting period referable to a gain charged to tax in accordance with section 643 the same proportion as so much of the amount (in this subparagraph

referred to as the 'specified amount') of the last-mentioned gain as is attributable to the disposal of residential development land (exclusive of any part of the gain as is referable to construction operations, within the meaning of section 644A, carried out by the company) bears to the specified amount, and

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- (ii) corporation tax referable to a gain from disposing of land which is treated by virtue of section 643 as income chargeable under Case IV of Schedule D shall be such sum as bears to the amount of corporation tax charged for the accounting period in accordance with section 21A at the rate of 25 per cent the same proportion as the amount of the company's profits which consists of income chargeable under Case IV of Schedule D by virtue of section 643 bears to the total amount of the profits of the company for the period so charged at the rate of 25 per cent.

- (4) (a) Where a company makes a claim in that behalf, the corporation tax payable by the company for an accounting period ending before 1 January 2001 shall be computed as if subparagraph (ii) of paragraph (a) of the definition of excepted operations in section 21A did not have effect in relation to residential development land.

- (b) For the purposes of this subsection where an accounting period of a company begins before 1 January 2001 and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on 31 December 2000 and the other beginning on 1 January 2001 and ending on the day on which the accounting period ends, and both parts shall be treated for the purpose of this section as if they were separate accounting periods of the company."

- (2) (a) This section shall apply—

- (i) as respects income tax, in relation to profits or gains arising on or after 1 December 1999, and

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(ii) as respects corporation tax, in relation to accounting periods ending on or after 1 January 2000.

(b) For the purposes of this section where an accounting period of a company begins before 1 January 2000 and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on 31 December 1999 and the other beginning on 1 January 2000 and ending on the day on which the accounting period ends, and both parts shall be treated for the purpose of this section as if they were separate accounting periods of the company.

Amendment of Part 26 (life assurance companies) of Principal Act.

**53.**—The Principal Act is amended in Part 26 by the insertion after Chapter 3 of the following Chapters:

“Chapter 4

*Taxation of Assurance Companies — New Basis*

Profits of life business: new basis.

730A.—(1) In this Chapter and Chapter 5 of this Part—

‘assurance company’ means an assurance company chargeable to corporation tax;

‘new basis business’ means—

(a) where an assurance company was carrying on life business on 1 April 2000, other than where the assurance company’s trading operations at that time consisted solely of foreign life assurance business within the meaning of section 451(1)—

(i) all policies and contracts commenced by the assurance company on or after 1 January 2001, and

(ii) all policies and contracts commenced by the assurance company before that date in so far as they relate to—

(I) pension business and general annuity business, and

(II) permanent health insurance, in respect of which the profits arising to the assurance company were before 1 January 2001 charged to tax under Case I of Schedule D,

- (b) where an assurance company was carrying on life business on 1 April 2000, and the assurance company's trading operations at that time consisted solely of foreign life assurance business within the meaning of section 451(1), all policies and contracts commenced by the assurance company on or after 1 January 2001, and
- (c) where an assurance company was not carrying on life business on 1 April 2000, subject to subsection (2), all policies and contracts commenced by the assurance company from the time it began to carry on life business.

(2) Where an assurance company begins to carry on life business after 1 April 2000 and before 31 December 2000, the assurance company may elect that all policies and contracts commenced by it before 31 December 2000 be treated as not being new basis business in so far as they relate to life business (other than pension business and general annuity business).

(3) Life business of an assurance company, in so far as it comprises new basis business, shall for the purposes of the Corporation Tax Acts be treated as though it were a separate business, that is, a business separate from other business (if any) carried on by the assurance company.

(4) Notwithstanding Chapters 1 and 3 of this Part, an assurance company shall be charged to corporation tax in respect of the profits of new basis business under Case I of Schedule D and those profits shall, subject to subsection (5), be computed in accordance with the provisions applicable to that Case of that Schedule.

(5) Where all or part of the profits of an assurance company are, under this Chapter, to be computed in accordance with the provisions applicable to Case I of Schedule D, the following provisions shall also apply—

- (a) such part of those profits as belongs or is allocated to, or is expended on behalf of, policyholders or annuitants shall be excluded in making the computation, and
- (b) there shall not be excluded in making the computation any remaining part of those profits reserved for policyholders or annuitants.

*Policyholders — New Basis*

Taxation of  
policyholders.

730B.—(1) In this Chapter ‘return’ means a return under section 730G.

(2) Subject to subsection (3), this Chapter applies for the purpose of imposing certain charges to tax in respect of a policy of assurance on the life of any person (in this Chapter referred to as a ‘life policy’) where the life policy is new basis business of the assurance company which commenced the life policy.

(3) This Chapter does not apply to a life policy which relates to pension business, general annuity business or permanent health insurance business, of an assurance company.

Chargeable event.

730C.—(1) Subject to the provisions of this section, in this Chapter—

(a) ‘chargeable event’, in relation to a life policy, means —

(i) the maturity of the life policy, other than in respect of any death or disability giving rise to benefits under the life policy,

(ii) the surrender in whole or in part of the rights conferred by the life policy, other than in respect of any death or disability giving rise to benefits under the life policy,

(iii) the assignment in whole or in part, of those rights, and

(b) in the case of a life policy issued by an assurance company which could have made an election under section 730A(2), but did not so do, a chargeable event shall be deemed to happen on 31 December 2000, where the life policy was commenced before that date.

(2) No account shall be taken for the purposes of subsection (1) of any assignment effected by way of security for a debt, or the discharge of a debt secured by the rights concerned.

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Gain arising on a chargeable event.

730D.—(1) On the happening of a chargeable event in relation to a life policy, there shall, subject to subsection (2), be treated as arising—

- (a) if the chargeable event is the maturity of the life policy or the surrender in whole of the rights thereby conferred, a gain in the amount determined under subsection (3)(a),
- (b) if the chargeable event is an assignment of the whole of the rights conferred by the life policy, a gain in the amount determined under subsection (3)(b),
- (c) if the chargeable event is the surrender of part of the rights conferred by the life policy, a gain in the amount determined under subsection (3)(c),
- (d) if the chargeable event is the assignment of part of the rights conferred by the life policy, a gain in the amount determined under subsection (3)(d), and
- (e) if the chargeable event is deemed to happen on 31 December 2000 under section 730C(1)(b), a gain in the amount determined under subsection (3)(e).

(2) A gain shall not be treated as arising on the happening of a chargeable event in relation to a life policy where, immediately before the chargeable event, the assurance company which commenced the life policy—

- (a) is in possession of a declaration, in relation to the life policy, of a kind referred to in—
  - (i) section 730E(2), or

- (ii) where the policyholder (within the meaning of section 730E) is not a company, section 730E(3), and
- (b) is not in possession of any information which would reasonably suggest that—
- (i) the information contained in that declaration is not, or is no longer, materially correct,
- (ii) the policyholder (within the meaning of section 730E) failed to comply with the undertaking referred to in section 730E(2)(f) or, as the case may be, section 730E(3)(f), or
- (iii) immediately before the chargeable event, the policyholder (within the said meaning) is resident or ordinarily resident in the State.

(3) The amount referred to—

- (a) in subsection (1)(a) is the amount determined by the formula—

$$B - P,$$

- (b) in subsection (1)(b) is the amount determined by the formula—

$$V - P,$$

- (c) in subsection (1)(c) is the amount determined by the formula—

$$B - \frac{(P \times B)}{V},$$

- (d) in subsection (1)(d) is the amount determined by the formula—

$$A - \frac{(P \times A)}{V},$$

and



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(e) in subsection (1)(e) is the amount determined by the formula—

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$$V - P,$$

where—

B is the amount or value of the sum payable and other benefits arising by reason of the chargeable event,

P is subject to subsection (4), an amount of premiums (in this section referred to as ‘allowable premiums’) being the total of all premiums paid in respect of the life policy immediately before the chargeable event, to the extent that they have not been taken into account in determining a gain on the previous happening of a chargeable event,

V is the value of the rights and other benefits conferred by the life policy immediately before the chargeable event, and

A is the value of the part of the rights and other benefits conferred by the life policy, which has been assigned,

without having regard to any amount of appropriate tax (within the meaning of section 730F) in connection with the chargeable event.

(4) (a) For the purposes of subsection (3), the amount of premiums taken into account in determining a gain on the happening of a chargeable event is, where the gain is determined—

(i) under paragraph (c) of subsection (3), an amount equal to—

$$\frac{(P \times B)}{V}$$

and

- (ii) under paragraph (d) of subsection (3), an amount equal to—

$$\frac{(P \times A)}{V}$$

where P, A, B and V have, respectively, the meanings assigned to them in subsection (3).

- (b) Where a chargeable event in relation to a life policy is deemed to happen on 31 December 2000 then, for the purposes of determining a gain arising on the happening of a subsequent chargeable event, the allowable premiums immediately after 31 December 2000 shall be deemed to be the greater of—
- (i) an amount equal to the value of the policy immediately after 31 December 2000, and
  - (ii) the allowable premiums immediately before 31 December 2000.
- (c) Where a chargeable event in relation to a life policy is an assignment of the whole of the rights conferred by the life policy then, for the purposes of determining a gain arising on the happening of a subsequent chargeable event, the allowable premiums immediately after the time of assignment shall be deemed to be the greater of—
- (i) an amount equal to the value of the policy immediately after the time of the assignment, and
  - (ii) the allowable premiums immediately before the assignment.
- (d) Where a chargeable event in relation to a life policy

is the assignment of part of the rights conferred by the life policy then the policy shall, for the purposes of determining a gain arising on the happening of any subsequent chargeable event, be treated as if it were comprised of 2 policies, that is—

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- (i) one policy conferring the part of the rights assigned, the allowable premiums in respect of which immediately after the assignment are an amount equal to the value of the policy immediately after the assignment, and
- (ii) the other policy conferring the rights which were not assigned, the allowable premiums in respect of which immediately after the assignment are the amount of the allowable premiums immediately before the assignment reduced by the amount of premiums taken into account in determining a gain on the assignment.

Declarations.

730E.—(1) In this section and in section 730F, 'policyholder', in relation to a life policy, at any time means—

- (a) where the rights conferred by the life policy are vested at that time in a person as beneficial owner, such person,
- (b) where the rights conferred by the life policy are held at that time on trusts created by a person, such person, and
- (c) where the rights conferred by the life policy are held at that time as security for a

debt owed by a person,  
such person.

(2) The declaration referred to in section 730D(2)(a)(i) in relation to a life policy is, subject to subsection (4), a declaration in writing to the assurance company which—

(a) is made by the policyholder at or about the time the life policy commenced,

(b) is signed by the policyholder,

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

(d) declares that the policyholder is not resident in the State at the time of making the declaration,

(e) contains—

(i) the name of the policyholder,

(ii) the address of the principal place of residence of the policyholder,

(f) contains an undertaking by the policyholder that if the policyholder becomes resident in the State, the policyholder will notify the assurance company accordingly, and

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

(3) The declaration referred to in section 730D(2)(a)(ii) in relation to a life policy is, subject to subsection (4), a declaration in writing to the assurance company which—

(a) is made by the policyholder,

(b) is signed by the policyholder,

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

- (d) declares that the policyholder, at the time the declaration is made, is neither resident nor ordinarily resident in the State, Pt.1 S.53
- (e) contains the name and address of the policyholder,
- (f) contains an undertaking by the policyholder that if the policyholder becomes resident in the State, the policyholder will notify the assurance company accordingly, and
- (g) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter.

(4) Where, immediately before the happening of a chargeable event, the rights conferred by a life policy were vested beneficially in 2 or more persons, or were held on trusts created, or as security for a debt owed, by 2 or more persons, this section and section 730D shall have effect in relation to each of those persons as if he or she had been the sole owner, settlor or, as the case may be, debtor, but with references to the amount of the gain construed as references to the part of it proportionate to his or her share in the rights at the time of the event, or, as the case may require, when the trusts were created.

Deduction of tax on the happening of a chargeable event.

730F.—(1) In this section and in section 730G, ‘appropriate tax’, in connection with a chargeable event in relation to a life policy, means a sum representing income tax on the amount of the gain treated in accordance with section 730D as thereby arising —

- (a) where the chargeable event falls on or after 1 January 2001, at a rate determined by the formula—

$(S + 3)$  per cent,

where  $S$  is the standard rate per cent (within the meaning of section 4), and

(b) where the chargeable event falls on or before 31 December 2000, at a rate of 40 per cent.

(2) An assurance company shall account for appropriate tax in accordance with section 730G.

(3) (a) An assurance company which is liable to account for appropriate tax in connection with a chargeable event in relation to a life policy shall, at the time of the chargeable event, be entitled—

(i) where the chargeable event is the maturity or surrender whether in whole or in part of the rights conferred by the life policy, to deduct from the proceeds payable to the policyholder on maturity, or as the case may be, surrender in whole or in part, an amount equal to the appropriate tax,

(ii) where the chargeable event—

(I) is the assignment, in whole or in part, of the rights conferred by the life policy, or

(II) is deemed to happen on 31 December 2000 under section 730C(1)(b),

to appropriate and realise sufficient assets underlying the life policy, to meet the amount of appropriate tax for which the assurance company is liable to account,

(b) the policyholder shall allow such deduction or, as the case may be, such appropriation, and

(c) the assurance company shall be acquitted and discharged of so much as is represented by the deduction or, as the case may be, the appropriation as if the amount of the deduction or the value of the appropriation had been paid to the policyholder. Pt.1 S.53

Returns and collection of appropriate tax.

730G.—(1) Notwithstanding any other provision of the Tax Acts, this section shall apply for the purposes of regulating the time and manner in which appropriate tax in connection with a chargeable event in relation to a life policy shall be accounted for and paid.

(2) An assurance company shall for each financial year make to the Collector-General—

(a) a return of the appropriate tax in connection with chargeable events happening on or prior to 30 June, within 30 days of that date, and

(b) a return of appropriate tax in connection with chargeable events happening between 1 July and 31 December, within 30 days of that later date, and

where it is the case, the return shall specify that there is no appropriate tax for the period in question.

(3) The appropriate tax in connection with a chargeable event which is required to be included in a return shall be due at the time by which the return is to be made and shall be paid by the assurance company to the Collector-General, and the appropriate tax so due shall be payable by the assurance company without the making of an assessment; but appropriate tax which has become so due may be assessed on the assurance company (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(4) Where it appears to the inspector that there is an amount of appropriate tax in relation to a chargeable

event which ought to have been but has not been included in a return, or where the inspector is dissatisfied with any return, the inspector may make an assessment on the assurance company to the best of his or her judgement, and any amount of appropriate tax in connection with a chargeable event due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

(5) Where any item has been incorrectly included in a return as appropriate tax, the inspector may make such assessments, adjustments or set-offs as may in his or her judgement be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the assurance company making the return or of any other person, are in so far as possible the same as they would have been if the item had not been included.

(6) (a) Any appropriate tax assessed on an assurance company shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (3)) subject to any appeal against the assessment, but no appeal shall affect the date when any amount is due under subsection (3).

(b) On determination of the appeal against an assessment under this Chapter, any appropriate tax overpaid shall be repaid.

(7) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case



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High Court), and

(iii) the collection and  
recovery of income  
tax,

shall, in so far as they are  
applicable, apply to the  
assessment, collection and  
recovery of appropriate  
tax.

(b) Any amount of appropriate  
tax shall carry interest at  
the rate of 1 per cent for  
each month or part of a  
month from the date when  
the amount becomes due  
and payable until  
payment.

(c) Subsections (2) and (4) of  
section 1080 shall apply in  
relation to interest pay-  
able under paragraph (b)  
as they apply in relation to  
interest payable under  
section 1080.

(d) In its application to any  
appropriate tax charged  
by any assessment made in  
accordance with this  
Chapter, section 1080 shall  
apply as if subsection  
(1)(b) of that section were  
deleted.

(8) Every return shall be in a form  
prescribed by the Revenue Com-  
missioners and shall include a declar-  
ation to the effect that the return is  
correct and complete.”.

**54.**—Section 420 of the Principal Act is amended by the substi-  
tution for subsection (9) of the following:

“(9) (a) References in the preceding subsections to a surren-  
dering company shall not include references to  
a company carrying on life business except to  
the extent that such life business is new basis  
business within the meaning of section 730A  
(inserted by the *Finance Act, 2000*).

Amendment of  
section 420 (losses,  
etc. which may be  
surrendered by  
means of group  
relief) of Principal  
Act.

(b) For the purposes of this section ‘life business’ shall  
be construed in accordance with section  
706(1).”.

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Amendment of section 595 (life assurance policy or deferred annuity contract entered into or acquired by a company) of Principal Act.

**55.**—Section 595 of the Principal Act is amended in subsection (1)(a) by the substitution for the definition of “relevant policy” of the following definition:

“‘relevant policy’ means a policy of life assurance or a contract for a deferred annuity on the life of a person, entered into or acquired by a company on or after 11 April 1994, which is not—

- (a) a policy to which section 594 applies, or
- (b) new basis business within the meaning of section 730A (inserted by the *Finance Act, 2000*).”.

Amendment of section 710 (profits of life business) of Principal Act.

**56.**—(1) Section 710 of the Principal Act is amended in subsection (2)(a)—

(a) by the substitution for “where a company’s trading operations consist solely of a foreign life assurance business” of “where a company’s trading operations on 31 December 2000 consisted solely of foreign life assurance business”, and

(b) by the deletion of subparagraphs (iii) and (iv).

(2) *Subsection (1)* shall apply as respects the financial year 2001 and subsequent financial years.

Amendment of Chapter 1 (unit trusts) of Part 27 of Principal Act.

**57.**—The Principal Act is amended in Part 27, in Chapter 1—

(a) by the substitution in subsection (1) of section 737 for the definition of “special investment units” of the following definition:

“‘special investment units’ means units sold to an individual on or after 1 February 1993 and before 1 January 2001 by the management company or trustee under an authorised unit trust scheme in respect of which—

- (a) the conditions specified in subsection (3) are satisfied, and
- (b) a declaration of the kind specified in subsection (4) has been made to the management company or trustee;”.

(b) in section 738, in subsection (2) by the substitution for paragraph (b)(i) of the following paragraph:

“(b) (i) As respects an undertaking for collective investment which is a company, the corporation tax which is chargeable on its profits on which corporation tax falls finally to be borne for a chargeable period shall, for the purposes of the Tax Acts, be such tax before it is reduced by any credit, relief or other reduction under those Acts, computed as if the rate of corporation tax were equal to the standard rate for the year of assessment in which the chargeable period falls.”.

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(c) by the insertion after section 739 of the following section: Pt.1 S.57

“Reorganisation  
of undertakings  
for collective  
investment.

739A.—(1) (a) In this section ‘undertaking for collective investment’ has the meaning assigned to it in section 738(1).

(b) Where an undertaking for collective investment (in this section referred to as the ‘first undertaking’) disposes of assets (in this section referred to as ‘transferred assets’) to another undertaking for collective investment in exchange for the issue of units to the first undertaking by that other undertaking for collective investment, no chargeable gains shall accrue to the first undertaking on that disposal.

(2) For the purposes of computing a gain accruing to the first undertaking on a disposal or first deemed disposal, under section 738(4)(a)(i), of the units referred to in subsection (1), notwithstanding any other provision of the Capital Gains Tax Acts, the amount or value of the consideration in money or money’s worth given by the first undertaking for the acquisition of the units is—

(a) where the transferred assets fell within section 738(4)(a)(i), the value of the transferred assets on their latest deemed disposal by the first undertaking under that section, and

(b) where the transferred assets did not fall within section 738(4)(a)(i), the cost incurred by the first mentioned undertaking in acquiring the transferred assets.”.

58.—The Principal Act is amended—

Investment  
undertakings.

(a) in Part 27 by the insertion after Chapter 1 of the following Chapter:

“Chapter 1A

*Investment Undertakings*

Interpretation and  
application.

739B.—(1) In this Chapter and in Schedule 2B—

'the Acts' means the Tax Acts and the Capital Gains Tax Acts;

'approved minimum retirement fund' has the meaning assigned to it in section 784C;

'approved retirement fund' has the meaning assigned to it in section 784A;

'chargeable event', in relation to an investment undertaking in respect of a unit holder, means—

- (a) the making of a relevant payment by the investment undertaking,
- (b) the making of any other payment by the investment undertaking to a person, by virtue of that person being a unit holder (whether or not in respect of the cancellation, redemption or repurchase of a unit) other than a payment made on the death of a unit holder,
- (c) the transfer by a unit holder, by way of sale or otherwise (other than as a result of the death of the unit holder), of entitlement to a unit in the investment undertaking, and
- (d) a chargeable event shall be deemed to happen on 31 December 2000 in respect of all unit holders (if any) at that date in relation to an investment undertaking—
  - (i) which commenced on or after 1 April 2000, or
  - (ii) which was on 31 March 2000 a specified collective investment undertaking,

but does not include—

- (A) any exchange of units in a sub-fund of an investment undertaking which is an umbrella scheme, for units

in another sub-fund of Pt.1 S.58  
that investment undertak-  
ing, and

- (B) any transaction in relation  
to, or in respect of, units  
which are held in a recog-  
nised clearing system;

‘collective investor’, in relation to an  
authorised investment company  
(within the meaning of Part XIII of  
the Companies Act, 1990), means an  
investor, being a life assurance com-  
pany, pension fund or other  
investor—

- (a) who invests in securities or  
any other property what-  
ever with moneys contrib-  
uted by 50 or more  
persons—

- (i) none of whom has at  
any time directly or  
indirectly contributed  
more than 5 per cent  
of such moneys, and

- (ii) each of a majority of  
whom has contrib-  
uted moneys to the  
investor with the  
intention of being  
entitled, otherwise  
than on death of any  
person or by refer-  
ence to a risk of any  
kind to any person or  
property, to receive  
from the investor—

- (I) a payment which,  
or

- (II) payments the ag-  
gregate of which,

exceeds those moneys  
by a part of the pro-  
fits or income arising  
to the investor,

and

- (b) who invests in the authorised  
investment company pri-  
marily for the benefit of  
those persons;

'distribution' has the same meaning as in the Corporation Tax Acts;

'intermediary' means a person who—

- (a) carries on a business which consists of, or includes, the receipt of payments from an investment undertaking on behalf of other persons, or
- (b) holds units in an investment undertaking on behalf of other persons;

'investment undertaking' means—

- (a) a unit trust scheme, other than—
  - (i) a unit trust mentioned in section 731(5)(a), or
  - (ii) a special investment scheme,

which is or is deemed to be an authorised unit trust scheme (within the meaning of the Unit Trusts Act, 1990) and has not had its authorisation under that Act revoked,

- (b) any other undertaking which is an undertaking for collective investment in transferable securities within the meaning of the relevant Regulations, being an undertaking which holds an authorisation, which has not been revoked, issued pursuant to the relevant Regulations,
- (c) any authorised investment company (within the meaning of Part XIII of the Companies Act, 1990)—
  - (i) which has not had its authorisation under that Part of that Act revoked, and
  - (ii) (I) which has been designated in

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that authorisation as an investment company which may raise capital by promoting the sale of its shares to the public and has not ceased to be so designated, or

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- (II) each of the shareholders of which is a collective investor,

and

- (d) an investment limited partnership (within the meaning of the Investment Limited Partnerships Act, 1994),

which is not an offshore fund (within the meaning of section 743); but includes any company limited by shares or guarantee which—

- (A) is wholly owned by such an investment undertaking or its trustees, if any, for the benefit of the holders of units in that undertaking, and

- (B) is so owned solely for the purpose of limiting the liability of that undertaking or its trustees, as the case may be, in respect of futures contracts, options contracts or other financial instruments with similar risk characteristics, by enabling it or its trustees, as the case may be, to invest or deal in such investments through the company,

which is not an offshore fund (within the meaning of section 743);

‘pension scheme’ means an exempt approved scheme within the meaning of section 774 or a retirement annuity contract or a trust scheme to which section 784 or 785 applies;

'qualifying fund manager' has the meaning assigned to it in section 784A;

'qualifying management company' has the meaning assigned to it in section 734(1);

'recognised clearing system' means any system for clearing units which is for the time being designated for the purposes of this Chapter by order of the Revenue Commissioners as a recognised clearing system;

'relevant gains', in relation to an investment undertaking, means gains accruing to the investment undertaking, being gains which would constitute chargeable gains in the hands of a person resident in the State including gains which would so constitute chargeable gains if all assets concerned were chargeable assets and no exemption from capital gains tax applied;

'relevant income', in relation to an investment undertaking, means any amounts of income, profits or gains which arise to or are receivable by the investment undertaking, being amounts of income, profits or gains—

- (a) which are or are to be paid to unit holders as relevant payments,
- (b) out of which relevant payments are or are to be made to unit holders, or
- (c) which are or are to be accumulated for the benefit of, or invested for the benefit of, unit holders,

and which if they arose to an individual resident in the State would in the hands of the individual constitute income for the purposes of income tax;

'relevant payment' means a payment including a distribution made to a unit holder by an investment undertaking by reason of rights conferred on the unit holder as a result of holding a unit or units in the investment undertaking, where such payments are made annually or at more frequent intervals, other than a payment made



in respect of the cancellation, redemption or repurchase of a unit; Pt.1 S.58

‘relevant profits’, in relation to an investment undertaking, means the relevant income and relevant gains of the investment undertaking;

‘relevant Regulations’ means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989);

‘return’ means a return under section 739F;

‘specified collective investment undertaking’ and ‘specified company’ have, respectively, the meanings assigned to them in section 734(1);

‘special investment scheme’ has the same meaning as in section 737;

‘standard rate’ has the same meaning as in section 3(1);

‘umbrella scheme’ means an investment undertaking—

- (a) which is divided into a number of sub-funds, and
- (b) in which the unit holders are entitled to exchange units in one sub-fund for units in another;

‘unit’ includes any investment made by a unit holder, such as a subscription for shares or a contribution of capital, in an investment undertaking, being an investment which entitles the investor—

- (a) to a share of the investments or relevant profits of, or
- (b) to receive a relevant payment from,

the investment undertaking;

‘unit holder’, in relation to an investment undertaking, means any person who by reason of the holding of a unit, or under the terms of a unit, in the investment undertaking is entitled to a share of any of the investments or relevant profits of, or to receive a relevant payment from, the investment undertaking.

(2) For the purposes of this Chapter, Schedule 2B and section 904D, references to an investment undertaking (other than in this subsection) shall be construed so as to include a reference to a trustee, management company or other such person who—

(a) is authorised to act on behalf, or for the purposes, of the investment undertaking, and

(b) habitually does so,

to the extent that such construction brings into account for the purposes of this Chapter, Schedule 2B and section 904D any matter relating to the investment undertaking, being a matter which would not otherwise be brought into account for those purposes; but such construction shall not render the trustee, management company or other such person liable in a personal capacity to any tax imposed by this Chapter on an investment undertaking.

(3) This Chapter applies to an investment undertaking and the unit holders in relation to that investment undertaking where the investment undertaking—

(a) is on 31 March 2000 a specified collective investment undertaking, from 1 April 2000, or

(b) first issued units on or after 1 April 2000, from the day of such first issue.

(4) Where this Chapter applies to an investment undertaking, sections 734, 738 and 739 shall not apply to that investment undertaking or to unit holders in relation to that investment undertaking.

(5) Schedule 2B has effect for the purposes of supplementing this Chapter.

(6) For the purposes of this Chapter and Schedule 2B, where a holder of units in an investment undertaking is—

(a) an investment undertaking,

(b) a special investment scheme, Pt.1 S.58  
or

(c) a unit trust to which section  
731(5)(a) applies,

the unit holder shall be treated as  
being entitled to the units so held.

Charge to tax.

739C.—(1) Notwithstanding anything in the Acts, an investment undertaking to which this Chapter applies shall not be chargeable to tax in respect of relevant profits otherwise than to the extent provided for in this Chapter.

(2) Notwithstanding Chapter 4 of Part 8, that Chapter shall apply to a deposit (within the meaning of that Chapter) to which an investment undertaking is for the time being entitled as if such deposit were not a relevant deposit within the meaning of that Chapter.

Gain arising on a chargeable event.

739D.—(1) In this Chapter—

(a) references to a chargeable event in relation to an investment undertaking in respect of a unit holder are, where the investment undertaking is an umbrella fund, references to a chargeable event in relation to each sub-fund of the umbrella fund in respect of a unit holder in that sub-fund, as if the sub-fund were the investment undertaking,

(b) references to an amount invested by a unit holder in an investment undertaking for the acquisition of a unit (in this paragraph referred to as the 'original unit'), where the original unit is a unit in a sub-fund of an umbrella scheme and the original unit has been exchanged for a unit or units of another sub-fund of the umbrella scheme, are references to the amount invested by the unit holder for the acquisition of the original unit, and

(c) references to an amount invested by a unit holder in an investment undertaking for the acquisition of a unit shall, where the investment undertaking was on 31 March 2000 a specified collective investment undertaking and the unit was at that time a unit (within the meaning of section 734(1)) held by the unit holder as a unit holder (within the meaning of the said section) in relation to the specified collective investment undertaking, be references to the amount invested by the unit holder for the acquisition of the unit (within the said meaning) of the specified collective investment undertaking, or where that unit was otherwise acquired by the unit holder, the value of that unit at its date of acquisition by the unit holder.

(2) On the happening of a chargeable event in relation to an investment undertaking in respect of a unit holder, there shall, subject to this section, be treated as arising to the investment undertaking a gain in the amount of—

- (a) where the chargeable event is the making of a relevant payment, the amount of the relevant payment,
- (b) where the chargeable event is the making of any other payment by the investment undertaking to a person, by virtue of that person being a unit holder, otherwise than on the cancellation, redemption or repurchase of a unit, the amount of the payment,
- (c) where the chargeable event is the making of a payment by the investment undertaking to a unit holder, on the cancellation, redemption or repurchase of a unit—

- (i) the amount determined under subsection (3), or
  - (ii) where the investment undertaking has made an election under subsection (5), the amount of the payment reduced by the amount invested by the unit holder in the investment undertaking in acquiring the unit, and where the unit was otherwise acquired by the unit holder, the amount so invested shall be the value of the unit at the time of its acquisition by the unit holder,
- (d) where the chargeable event is the transfer by a unit holder of entitlement to a unit,
- (i) the amount determined under subsection (4), or
  - (ii) where the investment undertaking has made an election under subsection (5), the value of the unit transferred at the time of transfer reduced by the amount invested by the unit holder in the investment undertaking in acquiring the unit, and where the unit was otherwise acquired by the unit holder, the amount so invested shall be the value of the unit at the time of its acquisition by the unit holder, and
- (e) where the chargeable event is deemed to happen on 31 December 2000, the excess (if any) of the value of the units held by the unit holder on that day over the total amount invested in the investment

undertaking by the unit holder for the acquisition of the units, and where any unit was otherwise acquired by the unit holder, the amount so invested to acquire that unit shall be the value of the unit at the time of its acquisition by the unit holder.

(3) The amount referred to in subsection (2)(c) is the amount determined by the formula—

$$P - \frac{(C \times N1)}{N2}$$

where—

P is the amount in money or money's worth payable to the unit holder on the cancellation, redemption or repurchase of units, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising,

C is the total amount invested by the unit holder in the investment undertaking to acquire the units held by the unit holder immediately before the chargeable event and—

- (a) where any unit was otherwise acquired by the unit holder, or
- (b) where a chargeable event was deemed to happen on 31 December 2000 in respect of the unit holder of that unit,

the amount so invested to acquire the unit is—

- (i) where paragraph (a) applies, the value of the unit at the time of its acquisition by the unit holder, and
- (ii) where paragraph (b) applies, the value of the unit on 31 December 2000, without having regard to any amount of appropriate tax (within the meaning of

section 739E) thereby Pt.1 S.58  
arising,

N1 is the number of units being cancelled, redeemed or, as the case may be, repurchased on the happening of the chargeable event, and

N2 is the total number of units held by the unit holder immediately before the chargeable event.

(4) The amount referred to in subsection (2)(d) is the amount determined by the formula—

$$V - \frac{(C \times N1)}{N2}$$

where—

V is the value of the units transferred, at the time of transfer, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising,

C is the total amount invested by the unit holder in the investment undertaking to acquire the units held by the unit holder immediately before the chargeable event and—

(a) where any unit was otherwise acquired by the unit holder, or

(b) where a chargeable event was deemed to happen on 31 December 2000 in respect of the unit holder of that unit,

the amount so invested to acquire the unit is—

(i) where paragraph (a) applies, the value of the unit at the time of its acquisition by the unit holder, and

(ii) where paragraph (b) applies, the value of the unit on 31 December 2000, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising,

N1 is the number of units transferred on the happening of the chargeable event, and

N2 is the total number of units held by the unit holder immediately before the chargeable event.

(5) The election referred to in paragraphs (c) and (d) of subsection (2) is an irrevocable election made by an investment undertaking—

(a) at the time it is set up or commenced, or

(b) where the investment undertaking was on 31 March 2000 a specified collective investment undertaking, on 1 April 2000,

in respect of all its unit holders at that time or any future time, so that, for the purposes of identifying units acquired with units subsequently disposed of by a unit holder, units acquired at an earlier time are deemed to have been disposed of before units acquired at a later time.

(6) A gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder where, immediately before the chargeable event, the unit holder—

(a) is a pension scheme which has made a declaration to the investment undertaking in accordance with paragraph 2 of Schedule 2B,

(b) is a company carrying on life business within the meaning of section 706, and which company has made a declaration to the investment undertaking in accordance with paragraph 3 of Schedule 2B,

(c) is another investment undertaking which has made a declaration to the investment undertaking in accordance with paragraph 4 of Schedule 2B,

(d) is a special investment scheme which has made a



declaration to the investment undertaking in accordance with paragraph 5 of Schedule 2B,

(e) is a unit trust to which section 731(5)(a) applies, and the unit trust has made a declaration to the investment undertaking in accordance with paragraph 6 of Schedule 2B,

(f) is a person who—

(i) is entitled to exemption from income tax by virtue of section 207(1)(b), and

(ii) has made a declaration to the investment undertaking in accordance with paragraph 7 of Schedule 2B,

(g) is a qualifying management company or a specified company and has made a declaration to the investment undertaking in accordance with paragraph 8 of Schedule 2B, or

(h) is a person who is entitled to exemption from income tax and capital gains tax by virtue of section 784A(2) (as amended by the *Finance Act, 2000*) and the units held are assets of an approved retirement fund or an approved minimum retirement fund and the qualifying fund manager has made a declaration to the investment undertaking in accordance with paragraph 9 of Schedule 2B,

and the investment undertaking is in the possession of the declaration immediately before the chargeable event.

(7) Subject to subsection (8), a gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder where,

immediately before the chargeable event, the investment undertaking—

- (a) is in possession of a declaration of a kind referred to in—
    - (i) paragraph 10 of Schedule 2B, or
    - (ii) where the unit holder is not a company, paragraph 11 of that Schedule, and
  - (b) is not in possession of any information which would reasonably suggest that—
    - (i) the information contained in that declaration is not, or is no longer, materially correct,
    - (ii) the unit holder failed to comply with the undertaking referred to in paragraph 10(g) or 11(f), as the case may be, of Schedule 2B, or
    - (iii) immediately before the chargeable event the unit holder is resident or ordinarily resident in the State.
- (8) (a) A gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder where—
- (i) the investment undertaking was on 31 March 2000 a specified collective investment undertaking and the unit holder was a unit holder (within the meaning of section 734(1)) in relation to that specified collective investment undertaking at that time, and
  - (ii) the investment undertaking on or before 30 June 2000 makes to

the Collector-General Pt.1 S.58  
 a declaration in  
 accordance with para-  
 graph 12 of Schedule  
 2B,

otherwise than, subject to  
 paragraph (b), in respect  
 of a unit holder (in this  
 subsection and in section  
 739G referred to as an  
 'excepted unit holder')—

(A) whose name is  
 included in the sched-  
 ule to the declaration  
 by virtue of para-  
 graph 12(d) of Sched-  
 ule 2B, and

(B) who has not made a  
 declaration of a kind  
 referred to in subsec-  
 tion (6) to the invest-  
 ment undertaking.

(b) A gain shall not be treated as  
 arising to an investment  
 undertaking on the hap-  
 pening of a chargeable  
 event in respect of an  
 excepted unit holder  
 where the chargeable  
 event is deemed to happen  
 on 31 December 2000.

(9) A gain shall not be treated as  
 arising to an investment undertaking  
 on the happening of a chargeable  
 event in respect of a unit holder who  
 is an intermediary, where immediately  
 before the chargeable event the  
 investment undertaking—

(a) is in possession of a declar-  
 ation of a kind referred to  
 in paragraph 13 of Sched-  
 ule 2B, and

(b) is not in possession of any  
 information which would  
 reasonably suggest that—

(i) the information con-  
 tained in that declar-  
 ation is not, or is no  
 longer, materially  
 correct,

(ii) the intermediary failed  
 to comply with the  
 undertaking referred

to in paragraph 13(e)  
of Schedule 2B, or

- (iii) any of the persons, on whose behalf the intermediary holds units of, or receives payments from, the investment undertaking, is resident or ordinarily resident in the State.

(10) An investment undertaking shall keep and retain declarations made to it in accordance with Schedule 2B for a period of 6 years from the time the unit holder of the units in respect of which a declaration was made, ceases to be such a unit holder.

Deduction of tax on the occurrence of a chargeable event.

739E.—(1) In this section and sections 739F and 739G, ‘appropriate tax’, in connection with a chargeable event in relation to an investment undertaking in respect of a unit holder, means a sum representing income tax on the amount of the gain arising to an investment undertaking—

- (a) where the amount of the gain is provided by section 739D(2)(a), at the standard rate for the year of assessment in which the gain arises,
- (b) where the chargeable event happens on or after 1 January 2001 and the amount of the gain is provided by paragraph (b), (c) or (d) of section 739D(2), at a rate determined by the formula—

$(S + 3)$  per cent,

where S is the standard rate per cent (within the meaning of section 4), and

- (c) where the chargeable event happens in the period commencing on 1 April 2000 and ending on 31 December 2000 and the amount of the gain is provided by paragraph (b), (c), (d) or (e) of section

739D(2), at a rate of 40 Pt.1 S.58 per cent.

(2) An investment undertaking shall account for the appropriate tax in connection with a chargeable event in relation to a unit holder in accordance with section 739F.

(3) An investment undertaking which is liable to account for appropriate tax in connection with a chargeable event in relation to a unit holder shall, at the time of the chargeable event, where the chargeable event is—

(a) the making of a payment to a unit holder, be entitled to deduct from the payment an amount equal to the appropriate tax,

(b) (i) the transfer by a unit holder of entitlement to a unit, or

(ii) deemed to happen on 31 December 2000,

be entitled to appropriate or cancel such units of the unit holder as are required to meet the amount of appropriate tax,

and the investment undertaking shall be acquitted and discharged of such deduction or, as the case may be, such appropriation or cancellation as if the amount of appropriate tax had been paid to the unit holder and the unit holder shall allow such deduction or, as the case may be, such appropriation or cancellation.

Returns and collection of appropriate tax.

739F.—(1) Notwithstanding any other provision of the Tax Acts, this section shall apply for the purposes of regulating the time and manner in which appropriate tax in connection with a chargeable event in relation to a unit holder shall be accounted for and paid.

(2) An investment undertaking shall for each financial year make to the Collector-General—

(a) a return of the appropriate tax in connection with

chargeable events happening on or prior to 30 June, within 30 days of that date, and

- (b) a return of appropriate tax in connection with chargeable events happening between 1 July and 31 December, within 30 days of that later date,

and where it is the case, the return shall specify that there is no appropriate tax for the period in question.

(3) The appropriate tax in connection with a chargeable event which is required to be included in a return shall be due at the time by which the return is to be made and shall be paid by the investment undertaking to the Collector-General, and the appropriate tax so due shall be payable by the investment undertaking without the making of an assessment; but appropriate tax which has become so due may be assessed on the investment undertaking (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(4) Where it appears to the inspector that there is an amount of appropriate tax in relation to a chargeable event which ought to have been but has not been included in a return, or where the inspector is dissatisfied with any return, the inspector may make an assessment on the investment undertaking to the best of his or her judgement, and any amount of appropriate tax in connection with a chargeable event due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

(5) Where any item has been incorrectly included in a return as appropriate tax, the inspector may make such assessments, adjustments or set-offs as may in his or her judgement be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the investment undertaking making the return or of any other person, are in so far as possible the same as they

would have been if the item had not been included. Pt.1 S.58

(6) (a) Any appropriate tax assessed on an investment undertaking shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (3)) subject to any appeal against the assessment, but no appeal shall affect the date when any amount is due under subsection (3).

(b) On determination of the appeal against an assessment under this Chapter, any appropriate tax overpaid shall be repaid.

(7) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and

(iii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.

(b) Any amount of appropriate tax shall carry interest at the rate of 1 per cent for each month or part of a month from the date when the amount becomes due and payable until payment.

(c) Subsections (2) and (4) of section 1080 shall apply in relation to interest payable under paragraph (b) as they apply in relation to

interest payable under section 1080.

- (d) In its application to any appropriate tax charged by any assessment made in accordance with this Chapter, section 1080 shall apply as if subsection (1)(b) of that section were deleted.

(8) Every return shall be in a form prescribed by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

Taxation of unit holders in investment undertakings.

739G.—(1) Where a chargeable event in relation to an investment undertaking in respect of a unit holder is deemed to happen on 31 December 2000 and the unit holder is an excepted unit holder referred to in section 739D(8), the unit holder shall be treated for all the purposes of the Capital Gains Tax Acts as if the amount of the gain which, but for section 739D(8)(b), would have arisen to the investment undertaking on the happening of the chargeable event, were a chargeable gain accruing to the unit holder at that time and notwithstanding section 28, the rate of capital gains tax in respect of that chargeable gain shall be 40 per cent.

(2) As respects a payment in money or money's worth to a unit holder by reason of rights conferred on the unit holder as a result of holding units in an investment undertaking to which this Chapter applies—

- (a) where the unit holder is not a company and the payment is a payment from which appropriate tax has been deducted, the payment shall not be reckoned in computing the total income of the unit holder for the purposes of the Income Tax Acts and shall not be treated as giving rise to a chargeable gain under the Capital Gains Tax Acts,

- (b) where the unit holder is not a company and the payment is a payment from



which appropriate tax has not been deducted, the amount of the payment shall be treated for the purposes of the Tax Acts as income arising to the unit holder, constituting profits or gains chargeable to tax under Case IV of Schedule D, Pt.1 S.58

- (c) where the unit holder is a company, the payment is a relevant payment and appropriate tax has been deducted from the payment, the amount received by the unit holder shall, subject to paragraph (g), be treated for the purposes of the Tax Acts as the net amount of an annual payment chargeable to tax under Case IV of Schedule D from the gross amount of which income tax has been deducted at the standard rate,
- (d) where the unit holder is a company, the payment is a relevant payment and appropriate tax has not been deducted from the payment, the amount of the payment shall, subject to paragraph (g), be treated for the purposes of the Tax Acts as income arising to the unit holder, constituting profits or gains chargeable to tax under Case IV of Schedule D,
- (e) where the unit holder is a company, the payment is not a relevant payment and appropriate tax has been deducted therefrom, such payment shall, subject to paragraph (g), not be taken into account for the purposes of the Tax Acts,
- (f) where the unit holder is a company, the payment is not a relevant payment and appropriate tax has not been deducted from the payment, the amount

of such payment shall, subject to paragraph (g), be treated for the purposes of the Tax Acts as income arising to the unit holder, constituting profits or gains chargeable to tax under Case IV of Schedule D,

(g) where the unit holder is a company chargeable to tax on the payment under Case I of Schedule D—

(i) subject to subparagraph (ii), the amount received by the unit holder increased by the amount (if any) of appropriate tax deducted shall be income of the unit holder for the chargeable period in which the payment is made,

(ii) where the payment is made on the cancellation, redemption or repurchase of units by the investment undertaking, such income shall be reduced by the amount of the consideration in money or money's worth given by the unit holder for the acquisition of those units, and

(iii) the amount (if any) of appropriate tax deducted shall be set off against corporation tax assessable on the unit holder for the chargeable period in which the payment is made,

(h) the amount of a payment made to a unit holder by an investment undertaking, where the unit holder is a company which is not resident in the State or the unit holder, not being a company, is neither resident nor ordinarily resident in the State, shall not

be chargeable to income tax, and Pt.1 S.58

- (i) no repayment of appropriate tax shall be made to any person who is not a company within the charge to corporation tax.

Investment undertakings: reconstructions and amalgamations.

739H.—(1) In this section—

‘exchange’, in relation to a scheme of reconstruction or amalgamation, means the issue of units (in this section referred to as ‘new units’) by an investment undertaking (in this section referred to as the ‘new undertaking’) to the unit holders of another investment undertaking (in this section referred to as the ‘old undertaking’) in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of units (in this section referred to as ‘old units’) in the old undertaking in exchange for the transfer by the old undertaking of all its assets and liabilities to the new undertaking where the exchange is entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation;

‘scheme of reconstruction or amalgamation’ means a scheme for the reconstruction of any investment undertaking or investment undertakings or the amalgamation of any 2 or more investment undertakings.

(2) The cancellation of old units arising from an exchange in relation to a scheme of reconstruction or amalgamation shall not be a chargeable event and the amount invested by a unit holder for the acquisition of the new units shall for the purposes of this Chapter be the amount invested by the unit holder for the acquisition of the old units.’,

and

- (b) by the insertion after Schedule 2A of the following Schedule:

“Section 739D.

#### SCHEDULE 2B

#### INVESTMENT UNDERTAKINGS: DECLARATIONS

##### *Interpretation*

1. In this Schedule—

'appropriate person', in relation to a pension scheme, means—

- (a) in the case of an exempt approved scheme (within the meaning of section 774), the administrator (within the meaning of section 770) of the scheme,
- (b) in the case of a retirement annuity contract to which section 784 or 785 applies, the person lawfully carrying on in the State the business of granting annuities on human life with whom the contract is made, and
- (c) in the case of a trust scheme to which section 784 or 785 applies, the trustees of the trust scheme;

'tax reference number', in relation to a person, has the meaning assigned to it by section 885 in relation to a specified person within the meaning of that section.

*Declarations of pension schemes*

2. The declaration referred to in section 739D(6)(a) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the person entitled to the units is a pension scheme,
- (e) contains the name and tax reference number of the pension scheme,

- (f) contains a certificate by the appropriate person in relation to the pension scheme that, to the best of that person's knowledge and belief, the declaration made in accordance with subparagraph (d) and the information furnished in accordance with subparagraph (e) are true and correct, and
- (g) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

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*Declaration of company carrying on life business*

3. The declaration referred to in section 739D(6)(b) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the person entitled to the units is a company carrying on life business within the meaning of section 706,
- (e) contains the name and tax reference number of the company, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declarations of investment  
undertakings*

4. The declaration referred to in section 739D(6)(c) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time the declaration is made, the person entitled to the units is an investment undertaking,
- (e) contains the name and tax reference number of the investment undertaking, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declarations of special investment  
scheme*

5. The declaration referred to in section 739D(6)(d) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time the declaration is made, the

person entitled to the units is a special investment scheme, Pt.1 S.58

- (e) contains the name and tax reference number of the special investment scheme, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declarations of unit trust*

6. The declaration referred to in section 739D(6)(e) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time the declaration is made, the person entitled to the units is a unit trust to which section 731(5)(a) applies,
- (e) contains the name and tax reference number of the unit trust, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declaration of charity*

7. The declaration referred to in section 739D(6)(f) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') entitled to the units in respect of which the undertaking is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the person entitled to the units is a person referred to in section 739D(6)(f)(i),
- (e) contains the name and address of that person,
- (f) contains a statement that at the time when the declaration is made the units in respect of which the declaration is made are held for charitable purposes only and—
  - (i) form part of the assets of a body of persons or trust treated by the Revenue Commissioners as a body or trust established for charitable purposes only, or
  - (ii) are, according to the rules or regulations established by statute, charter, decree, deed of trust or will, held for charitable purposes only and are so treated by the Revenue Commissioners,
- (g) contains an undertaking by the declarer that if the person mentioned in subparagraph (d) ceases to be a person referred to in section 739D(6)(f)(i), the declarer will notify the investment undertaking accordingly, and
- (h) contains such other information as the Revenue



Commissioners may Pt.1 S.58  
reasonably require for the  
purposes of Chapter 1A of  
Part 27.

*Declaration of qualifying management  
company and specified company*

8. The declaration referred to in section 739D(6)(g) is a declaration in writing to the investment undertaking which—

- (a) is made by a person (in this paragraph referred to as the 'declarer') who is entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time the declaration is made, the person entitled to the units is a qualifying management company or, as the case may be, a specified company,
- (e) contains the name and tax reference number of the declarer, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declaration of qualifying fund manager*

9. The declaration referred to in section 739D(6)(h) is a declaration in writing to the investment undertaking which—

- (a) is made by a qualifying fund manager (in this paragraph referred to as the 'declarer') in respect of units which are assets in an approved retirement fund or, as the case may be, an approved minimum retirement fund,

- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that, at the time when the declaration is made, the units in respect of which the declaration is made—
  - (i) are assets of an approved retirement fund or, as the case may be, an approved minimum retirement fund, and
  - (ii) are managed by the declarer for the individual who is beneficially entitled to the units,
- (e) contains the name, address and tax reference number of the individual referred to in subparagraph (d),
- (f) contains an undertaking by the declarer that if the units cease to be assets of the approved retirement fund or, as the case may be, the approved minimum retirement fund, including a case where the units are transferred to another such fund, the declarer will notify the investment undertaking accordingly, and
- (g) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declarations of non-resident on acquisition of units*

10. The declaration referred to in section 739(D)(7)(a)(i) is a declaration in writing to the investment undertaking which—

- (a) is made by a person (in this paragraph referred to as the 'declarer') who is

entitled to the units in Pt.1 S.58  
respect of which the dec-  
laration is made,

- (b) is made on or about the time when the units are applied for or acquired by the declarer,
- (c) is signed by the declarer,
- (d) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (e) declares that, at the time the declaration is made, the declarer is not resident in the State,
- (f) contains the name and address of the declarer,
- (g) contains an undertaking by the declarer that if the declarer becomes resident in the State, the declarer will notify the investment undertaking accordingly, and
- (h) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declaration of non-corporate person*

11. The declaration referred to in section 739D(7)(a)(ii) is a declaration in writing to the investment undertaking which—

- (a) is made by the person (in this paragraph referred to as the 'declarer') who is entitled to the units in respect of which the declaration is made,
- (b) is signed by the declarer,
- (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (d) declares that the declarer, at the time the declaration is made, is neither resident

nor ordinarily resident in the State,

- (e) contains the name and address of the declarer,
- (f) contains an undertaking by the declarer that if the declarer becomes resident in the State, the declarer will notify the investment undertaking accordingly, and
- (g) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.

*Declaration to Collector-General*

12. The declaration referred to in section 739D(8)(a) is a declaration in writing to the Collector-General which—

- (a) is made and signed by the investment undertaking,
- (b) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (c) contains the name, address and tax reference number of the investment undertaking,
- (d) declares that, to the best of the investment undertaking's knowledge and belief, no units in the investment undertaking were held on 1 April 2000 by a person who was resident in the State at that time, other than such persons whose names and addresses are set out on the schedule to the declaration, and
- (e) contains a schedule which sets out the name and address of each person who on 1 April 2000 was a unit holder in the investment undertaking and who was on that date, resident in the State.

*Declaration of intermediary*

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13. The declaration referred to in section 739D(9)(a) is a declaration in writing to the investment undertaking which—

- (a) is made and signed by the intermediary,
- (b) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
- (c) contains the name and address of the intermediary,
- (d) declares that, at the time of making the declaration, to the best of the intermediary's knowledge and belief, the person who has beneficial entitlement to each of the units in respect of which the declaration is made—
  - (i) is not resident in the State, where that person is a company, and
  - (ii) where that person is not a company, the person is neither resident nor ordinarily resident in the State,
- (e) contains an undertaking that where the intermediary becomes aware at any time that the declaration made under subparagraph (d) is no longer correct, the intermediary will notify the investment undertaking accordingly, and
- (f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27."

**59.**—The Principal Act is amended in section 172A (inserted by the Finance Act, 1999) by the substitution in subsection (1)(a) for the definition of "collective investment undertaking" of the following definition:

Amendment of section 172A (interpretation) of Principal Act.

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“‘collective investment undertaking’ means—

- (i) a collective investment undertaking within the meaning of section 734,
- (ii) an undertaking for collective investment within the meaning of section 738, or
- (iii) an investment undertaking within the meaning of section 739B (inserted by the *Finance Act, 2000*),

not being an offshore fund within the meaning of section 743;”.

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

**60.**—Section 659 of the Principal Act is amended—

- (a) in paragraph (c) of subsection (1) by the substitution of “6 April 2003” for “the 6th day of April, 2000,”, and
- (b) (i) by the substitution of the following for subsection (2):

“(2) (a) Subject to the provisions of Article 6 of Council Regulation (EEC) No. 2328/91 of 15 July 1991<sup>1</sup>, on improving the efficiency of agricultural structures, as amended, and subject to subsections (3) and (3A), where a person to whom this section applies—

- (i) has delivered to the Department of Agriculture, Food and Rural Development a farm nutrient management plan referred to in subsection (1)(b), and
- (ii) incurs capital expenditure to which subsection (1) applies,

there shall be made to such person during the writing-down periods, specified in paragraph (b), writing-down allowances (in this section referred to as ‘farm pollution control allowances’) in respect of that expenditure and such allowances shall be made in taxing the trade.

(b) The writing-down periods referred to in paragraph (a) shall be—

- (i) 8 years beginning with the chargeable period related to the capital expenditure, where that expenditure is incurred before 6 April 2000, or
- (ii) 7 years beginning with the chargeable period related to the capital expenditure, where that

<sup>1</sup>O.J. No. L218, 6.8.1991, p.1

expenditure is incurred on or after 6 April 2000,” Pt.1 S.60

- (ii) 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)(b)(i), where the capital expenditure was incurred—

- (i) before 6 April 1998, an amount equal to 50 per cent of that expenditure or £10,000, whichever is the lesser,
- (ii) on or after 6 April 1998 and before 6 April 2000, an amount equal to 50 per cent of that expenditure or £15,000, whichever is the lesser.”

and

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

“(3A) The farm pollution control allowances to be made in accordance with subsection (2) during the writing-down period referred to in subsection (2)(b)(ii), in respect of capital expenditure incurred in a chargeable period, where that expenditure is incurred on or after 6 April 2000 shall, subject to subsection (3B), be an amount equal to—

- (a) 15 per cent of that expenditure incurred for each of the first 6 years of the writing-down period, and
- (b) 10 per cent of that expenditure for the last year of the writing-down period.

(3B) (a) In this subsection—

‘residual amount’, in relation to capital expenditure incurred in a chargeable period, means an amount equal to 50 per cent of that expenditure or £25,000 whichever is the lesser;

‘specified amount’, in relation to capital expenditure incurred in a chargeable period, means the balance of that expenditure after deducting the residual amount;

‘specified return date for the chargeable period’ has the same meaning as in section 950.

- (b) Notwithstanding subsection (3A), where farm pollution control allowances are to be made to a person in accordance with that subsection during the writing-down period referred to in subsection

(2)(b)(ii), such person may elect to have those allowances made in accordance with this subsection and, where such person so elects, the allowances shall be made in accordance with this subsection only.

(c) Where paragraph (b) applies to a person, the farm pollution control allowances to be made to such person during the writing-down period referred to in subsection (2)(b)(ii) shall be an amount equal to—

(i) 15 per cent of the specified amount for each of the first 6 years of the writing-down period, and

(ii) 10 per cent of the specified amount for the last year of the writing-down period, and

(iii) subject to paragraph (d), the whole or any part of the residual amount, as is specified by the person to whom the allowances are to be made, in any year of the writing-down period.

(d) The allowances to be made in accordance with subparagraphs (i) and (iii) of paragraph (c) or subparagraphs (ii) and (iii) of that paragraph, as the case may be, for any year of the writing-down period, shall not in the aggregate exceed the residual amount.

(3C) (a) An election by a person to whom this section applies in relation to the farm pollution control allowances claimed in subsection (3B) shall be made in writing on or before the specified return date for the chargeable period in which the expenditure is incurred and shall be included in the annual statement required to be delivered under the Income Tax Acts of the profits or gains from farming as set out in subsection (5).

(b) An election made under the provisions of paragraph (a) cannot be altered or varied during the writing-down period to which it refers.”.

**61.—The Principal Act is amended—**

(a) in Part 1, by the substitution for paragraph (b) of the definition of “capital allowance” in section 2(1) of the following:



(b) in Part 23, by the insertion after Chapter 2 of the following:

“Chapter 3

*Milk Quotas*

Interpretation.

669A.—In this Chapter—

‘lessee’ has the same meaning as in Chapter 8 of Part 4;

‘levy’ means the levy referred to in Council Regulation (EEC) No. 3950 of 28 December 1992<sup>1</sup>, as amended;

‘milk’ means the produce of the milking of one or more cows and ‘other milk products’ includes cream, butter and cheese;

‘milk quota’ means—

(a) the quantity of a milk or other milk products which may be supplied by a person carrying on farming, in the course of a trade of farming land occupied by such person to a purchaser in a milk quota year without that person being liable to pay a levy, or

(b) the quantity of a milk or other milk products which may be sold or transferred free for direct consumption by a person carrying on farming, in the course of a trade of farming land occupied by such person in a milk quota year without that person being liable to pay a levy;

‘milk quota restructuring scheme’ means a scheme introduced by the Minister for Agriculture, Food and Rural Development under the provisions of Article 8(b) of Council Regulation (EEC) No. 3950 of 28 December 1992, as amended;

‘milk quota year’ means a twelve month period beginning on 1 April and ending on the following 31 March;

<sup>1</sup>O.J. No. L405, 31.12.1992, p.1

'purchaser' has the meaning assigned to it under Council Regulation (EEC) No. 3950 of 28 December 1992;

'qualifying expenditure' means—

- (a) in the case of milk quota to which paragraph (a) of the definition of 'qualifying quota' refers, the amount of the capital expenditure incurred on the purchase of that qualifying quota, and
- (b) in the case of milk quota to which paragraph (b) of the definition of 'qualifying quota' refers, the lesser of—
  - (i) the amount of capital expenditure incurred on the purchase of that qualifying quota, or
  - (ii) the amount of capital expenditure which would have been incurred on the purchase of that qualifying quota if the price paid were the maximum price for the milk quota year in which the purchase took place as set by the Minister for Agriculture, Food and Rural Development for the purposes of a Milk Quota Restructuring Scheme;

'qualifying quota' means—

- (a) a milk quota purchased by a person on or after 1 April 2000 under a Milk Quota Restructuring Scheme, or
- (b) a milk quota purchased by a lessee who entered into a lease agreement with a lessor who is not a person connected (within the meaning of section 10) with that lessee, in respect of that quota prior to 13 October 1999 and which ends on or after 31 March 2000 and which complies

with the provisions of Pt.1 S.61  
Council Regulation  
(EEC) No. 857-84<sup>1</sup> of 31  
March 1984 or Council  
Regulation (EEC) No.  
3950 of 28 December  
1992;

‘writing-down period’ has the mean-  
ing assigned to it by section 669B(2).

Annual allowances  
for capital  
expenditure on  
purchase of milk  
quota.

669B.—(1) Where, on or after 6  
April 2000, a person incurs qualifying  
expenditure on the purchase of a  
qualifying quota, there shall, subject  
to and in accordance with this Chap-  
ter, be made to that person writing-  
down allowances during the writing-  
down period as specified in subsection  
(2); but no writing-down allowance  
shall be made to a person in respect of  
any qualifying expenditure unless the  
allowance is to be made to the person  
in taxing the person’s trade of  
farming.

(2) The writing-down period  
referred to in subsection (1) shall be 7  
years commencing with the beginning  
of the chargeable period related to  
the qualifying expenditure.

(3) The writing-down allowances  
to be made during the writing-down  
period referred to in subsection (2) in  
respect of qualifying expenditure shall  
be determined by the formula—

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

where—

A is the amount of the capital  
expenditure incurred on the pur-  
chase of the milk quota,

B is the length of the part of the  
chargeable period falling within  
the writing-down period, and

C is the length of the writing-down  
period.

Effect of sale of  
quota.

669C.—(1) Where a person incurs  
qualifying expenditure on the pur-  
chase of a qualifying quota and,  
before the end of the writing-down  
period, any of the following events  
occurs—

<sup>1</sup>O.J. No. L90, 1.4.1984, p.13

- (a) the person sells the qualifying quota or so much of the quota as the person still owns;
- (b) the qualifying quota comes to an end or ceases altogether to be used;
- (c) the person sells part of the qualifying quota and the net proceeds of the sale (in so far as they consist of capital sums) are not less than the amount of the qualifying expenditure remaining unallowed;

no writing-down allowance shall be made to that person for the chargeable period related to the event or any subsequent chargeable period.

(2) Where a person incurs qualifying expenditure on the purchase of a qualifying quota and, before the end of the writing-down period, either of the following events occurs—

- (a) the qualifying quota comes to an end or ceases altogether to be used;
- (b) the person sells all of the qualifying quota or so much of that quota as the person still owns, and the net proceeds of the sale (in so far as they consist of capital sums) are less than the amount of the qualifying expenditure remaining unallowed;

there shall, subject to and in accordance with this Chapter, be made to that person for the accounting period related to the event an allowance (in this Chapter referred to as a 'balancing allowance') equal to—

- (i) if the event is the qualifying quota coming to an end or ceasing altogether to be used, the amount of the qualifying expenditure remaining unallowed, and
- (ii) if the event is a sale, the amount of the qualifying expenditure remaining

unallowed less the net Pt.1 S.61  
proceeds of the sale.

(3) Where a person who has incurred qualifying expenditure on the purchase of a qualifying quota sells all or any part of that quota and the net proceeds of the sale (in so far as they consist of capital sums) exceed the amount of the qualifying expenditure remaining unallowed, if any, there shall, subject to and in accordance with this Chapter, be made on that person for the chargeable period related to the sale a charge (in this Chapter referred to as a 'balancing charge') on an amount equal to—

(a) the excess, or

(b) where the amount of the qualifying expenditure remaining unallowed is nil, the net proceeds of the sale.

(4) Where a person who has incurred qualifying expenditure on the purchase of a qualifying quota sells a part of that quota and subsection (3) does not apply, the amount of any writing-down allowance made in respect of that expenditure for the chargeable period related to the sale or any subsequent chargeable period shall be the amount determined by—

(a) subtracting the net proceeds of the sale (in so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale, and

(b) dividing the result by the number of complete years of the writing-down period which remained at the beginning of the chargeable period related to the sale,

and so on for any subsequent sales.

(5) References in this section to the amount of any qualifying expenditure remaining unallowed shall in relation to any event be construed as references to the amount of that expenditure less any writing-down allowances made in respect of that expenditure for chargeable periods before the

chargeable period related to that event, and less also the net proceeds of any previous sale by the person who incurred the expenditure of any part of the qualifying quota acquired by the expenditure, in so far as those proceeds consist of capital sums.

(6) Notwithstanding subsections (1) to (5)—

(a) no balancing allowance shall be made in respect of any expenditure unless a writing-down allowance has been, or, but for the happening of the event giving rise to the balancing allowance, could have been, made in respect of that expenditure, and

(b) the total amount on which a balancing charge is made in respect of any expenditure shall not exceed the total writing-down allowances actually made in respect of that expenditure less, if a balancing charge has previously been made in respect of that expenditure, the amount on which that charge was made.

Manner of making allowances and charges.

669D.—An allowance or charge under this Chapter shall be made to or on a person in taxing the profits or gains from farming but only if at any time in the chargeable period or its basis period the qualifying quota in question was used for the purposes of that trade.

Application of Chapter 4 of Part 9.

669E.—(1) Subject to subsection (2), Chapter 4 of Part 9 shall apply as if this Chapter were contained in that Part.

(2) In Chapter 4 of Part 9, as applied by virtue of subsection (1) to a qualifying quota, the reference in section 312(5)(a)(i) to the sum mentioned in paragraph (b) shall in the case of a qualifying quota be construed as a reference to the amount of the qualifying expenditure on the acquisition of the qualifying quota remaining unallowed, computed in accordance with section 669C.

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Commencement  
(Chapter 3).

669F.—This Chapter shall come into operation on such day as the Minister for Finance, with the consent of the Minister for Agriculture, Food and Rural Development, may, by order, appoint.”.

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**62.**—The Principal Act is amended in section 723 by the substitution in subsection (1) for the definition of “special investment policy” of the following definition:

Amendment of section 723 (special investment policies) of Principal Act.

“ ‘special investment policy’ means a policy of life assurance issued by an assurance company to an individual on or after 1 February 1993 and before 1 January 2001, in respect of which—

- (a) the conditions specified in subsection (3) are satisfied, and
- (b) a declaration of the kind specified in subsection (4) has been made to the assurance company;”.

**63.**—(1) Section 843A of the Principal Act is amended—

Amendment of section 843A (capital allowances for buildings used for certain childcare purposes) of Principal Act.

(a) in subsection (1)—

- (i) by the insertion of the following definition after the definition of ‘pre-school child’ and ‘pre-school service’:

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

and

- (ii) by the substitution of the following definition for “qualifying expenditure”—

“ ‘qualifying expenditure’ means capital expenditure incurred on the construction, conversion or refurbishment of a qualifying premises;”.

(b) in subsection (3) by the insertion after “qualifying expenditure” of “incurred on or after 2 December 1998”,

(c) by the insertion of the following subsection after subsection (3):

“(3A) For the purposes of the application, by subsection (2), of sections 271 and 273 in relation to qualifying expenditure incurred on or after 1 December 1999 on a qualifying premises—

(a) section 271 shall apply—

- (i) as if in subsection (1) of that section the definition of ‘industrial development agency’ were deleted,

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[2000.]

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(ii) as if in subsection (2)(a)(i) of that section 'to which subsection (3) applies' were deleted,

(iii) as if subsection (3) of that section were deleted,

(iv) as if the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be an amount equal to 100 per cent of the capital expenditure mentioned in subsection (2).',

and

(v) as if subsection (5) of that section were deleted,

and

(b) section 273 shall apply—

(i) as if in subsection (1) of that section the definition of 'industrial development agency' were deleted, and

(ii) as if subsections (2)(b) and (3) to (7) of that section were deleted.",

(d) by the insertion of the following subsection after subsection (4):

"(5) Subsections (3) and (3A) shall not apply in respect of qualifying expenditure incurred on a qualifying premises on or after 1 December 1999—

(a) where a property developer is entitled to the relevant interest, within the meaning of section 269, in that qualifying premises, and

(b) either the person referred to in paragraph (a) or a person connected (within the meaning of section 10) with that person incurred the qualifying expenditure on that qualifying premises."

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

Amendment of Part 29 (patents, scientific and certain other research, know-how and certain training) of Principal Act.

**64.**—The Principal Act is amended in Part 29 by the insertion after Chapter 3 of the following:

“Chapter 4

*Transmission Capacity Rights*

Interpretation  
(Chapter 4).

769A.—(1) In this Chapter—

'capacity rights' means the right to use wired,



radio or optical transmission paths for the transfer of voice, data or information; Pt.1 S.64

‘writing-down period’ has the meaning assigned to it by section 769B(2).

(2) In this Chapter, any reference to the sale of part of capacity rights includes a reference to the grant of a licence in respect of the capacity rights in question, and any reference to the purchase of capacity rights includes a reference to the acquisition of a licence in respect of capacity rights; but, if a licence granted by a company entitled to any capacity rights is a licence to exercise those rights to the exclusion of the grantor and all other persons for the whole of the remainder of the term for which the rights subsist, the grantor shall be treated for the purposes of this Chapter as thereby selling the whole of the rights.

Annual allowances for capital expenditure on purchase of capacity rights.

769B.—(1) Where, on or after 1 April 2000, a company incurs capital expenditure on the purchase of capacity rights, there shall, subject to and in accordance with this Chapter, be made to that company writing-down allowances, in respect of that expenditure during the writing-down period; but no writing-down allowance shall be made to a company in respect of any expenditure unless—

- (a) the allowance is to be made to the company in taxing the company’s trade, or
- (b) any income receivable by the company in respect of the rights would be liable to tax.

(2) (a) Subject to paragraph (c), the writing-down period shall be—

- (i) a period of 7 years, or
- (ii) where the capacity rights are purchased for a specified period which exceeds 7 years, the number of years for which the capacity rights are purchased,

commencing with the beginning of the accounting period related to the expenditure.

- (b) For the purposes of this section, writing-down allowances shall be determined by the formula—

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

where—

A is the amount of the capital expenditure incurred on the purchase of the capacity rights,

B is the length of the part of the chargeable period falling within the writing-down period, and

C is the length of the writing-down period.

- (c) For the purposes of this subsection, any expenditure incurred for the purposes of a trade by a company about to carry on the trade shall be treated as if that expenditure had been incurred by that company on the first day on which that company carries on the trade unless before that day the company has sold all the capacity rights on the purchase of which the expenditure was incurred.

Effect of lapse of capacity rights.

769C.—(1) Where a company incurs capital expenditure on the purchase of capacity rights and, before the end of the writing-down period, any of the following events occurs—

- (a) the rights come to an end without provision for their subsequent renewal or the rights cease altogether to be exercised;
- (b) the company sells all those rights or so much of them as it still owns;
- (c) the company sells part of those rights and the amount of net proceeds of the sale (in so far as they consist of capital sums) are not less than the amount of the capital expenditure remaining unallowed;

no writing-down allowance shall be made to that company for the chargeable period related to the event or for any subsequent chargeable period.

(2) Where a company incurs capital expenditure on the purchase of capacity

rights and, before the end of the writing-down period, either of the following events occurs—

- (a) the rights come to an end without provision for their subsequent renewal or the rights cease altogether to be exercised;
- (b) the company sells all those rights or so much of them as it still owns, and the amount of the net proceeds of the sale (in so far as they consist of capital sums) are less than the amount of the capital expenditure remaining unallowed;

there shall, subject to and in accordance with this Chapter, be made to that company for the accounting period related to the event an allowance (in this Chapter referred to as a 'balancing allowance') equal to—

- (i) if the event is one referred to in paragraph (a), the amount of the capital expenditure remaining unallowed, and
- (ii) if the event is one referred to in paragraph (b), the amount of the capital expenditure remaining unallowed less the amount of the net proceeds of the sale.

(3) Where a company which has incurred capital expenditure on the purchase of capacity rights sells all or any part of those rights and the amount of the net proceeds of the sale (in so far as they consist of capital sums) exceeds the amount of the capital expenditure remaining unallowed, if any, there shall, subject to and in accordance with this Chapter, be made on that company for the chargeable period related to the sale a charge (in this Chapter referred to as a 'balancing charge') on an amount equal to—

- (a) the excess, or
- (b) where the amount of the capital expenditure remaining unallowed is nil, the amount of the net proceeds of the sale.

(4) Where a company which has incurred capital expenditure on the purchase of capacity rights sells a part of those rights and subsection (3) does not apply, the amount of any writing-down allowance made in respect of that expenditure for the chargeable period

related to the sale or any subsequent chargeable period shall be the amount determined by—

- (a) subtracting the amount of the net proceeds of the sale (in so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale, and
- (b) dividing the result by the number of complete years of the writing-down period which remained at the beginning of the chargeable period related to the sale,

and so on for any subsequent sales.

(5) References in this section to the amount of any capital expenditure remaining unallowed shall in relation to any event aforesaid be construed as references to the amount of that expenditure less any writing-down allowances made in respect of that expenditure for chargeable periods before the chargeable period related to that event, and less also the amount of the net proceeds of any previous sale by the company which incurred the expenditure of any part of the rights acquired by the expenditure, in so far as those proceeds consist of capital sums.

(6) Notwithstanding subsections (1) to (5)—

- (a) no balancing allowance shall be made in respect of any expenditure unless a writing-down allowance has been, or, but for the happening of the event giving rise to the balancing allowance, could have been, made in respect of that expenditure, and
- (b) the total amount on which a balancing charge is made in respect of any expenditure shall not exceed the total writing-down allowances actually made in respect of that expenditure less, if a balancing charge has previously been made in respect of that expenditure, the amount on which that charge was made.

Manner of making allowances and charges.

769D.—(1) An allowance or charge under this Chapter shall be made to or on a company in taxing the company's trade if—

- (a) the company is carrying on a trade the profits or gains of which are or, if there were any, would be,

chargeable to corporation tax for Pt.1 S.64  
the chargeable period for which  
the allowance or charge is made,  
and

(b) at any time in the chargeable period  
or its basis period the capacity  
rights in question, or other rights  
out of which they were granted,  
were used for the purposes of  
that trade.

(2) Except where provided for in subsection  
(1), an allowance under this Chapter  
shall be made by means of discharge or  
repayment of tax and shall be available  
against income from capacity rights, and a  
charge under this Chapter shall be made  
under Case IV of Schedule D.

Application of  
Chapter 4 of Part 9.

769E.—(1) Subject to subsection (2),  
Chapter 4 of Part 9 shall apply as if this  
Chapter were contained in that Part, and any  
reference in the Tax Acts to any capital  
allowance to be given by means of discharge  
or repayment of tax and to be available or  
available primarily against a specified class  
of income shall include a reference to any  
capital allowance given in accordance with  
section 769D(2).

(2) In Chapter 4 of Part 9, as applied by  
virtue of subsection (1) to capacity rights, the  
reference in section 312(5)(a)(i) to the sum  
mentioned in paragraph (b) shall in the case  
of capacity rights be construed as a reference  
to the amount of the capital expenditure on  
the acquisition of the capacity rights remain-  
ing unallowed, computed in accordance with  
section 769C.

Commencement  
(Chapter 4).

769F.—This Chapter shall come into operation  
on such day as the Minister for Finance  
may, by order, appoint.”.

**65.**—(1) Section 243(5) of the Principal Act is amended by the  
substitution for “except where the company has been authorised by  
the Revenue Commissioners to do otherwise, the company deducts  
income tax which it accounts for under sections 238 and 239, or under  
sections 238 and 241, as the case may be, or” of the following: Amendment of  
section 243  
(allowance of  
charges on income)  
of Principal Act.

“except where—

(I) the company has been authorised by the Revenue Com-  
missioners to do otherwise, or

(II) the interest is interest referred to in paragraph (b) or  
(h) of section 246(3),

the company deducts income tax which it accounts for under  
sections 238 and 239, or under sections 238 and 241, as the case  
may be, or”.

Pt.1 S.65

(2) This section shall apply as on and from 10 February 2000.

Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.

**66.**—(1) Section 246 of the Principal Act is amended—

(a) in subsection (1) by the substitution in the definition of “relevant territory” of “made;” for “made.” and by the insertion of the following definition after that definition:

“ ‘tax’, in relation to a relevant territory, means any tax imposed in such territory which corresponds to income tax or corporation tax in the State.”,

and

(b) in subsection (3)(h) by the substitution of “which, by virtue of the law of a relevant territory, is resident for the purposes of tax in the relevant territory,” for “resident in a relevant territory”.

(2) This section shall apply as on and from 10 February 2000.

Amendment of section 247 (relief to companies on loans applied in acquiring interest in other companies) of Principal Act.

**67.**—(1) Section 247 of the Principal Act is amended by the substitution of the following for subsection (5):

“(5) Interest eligible for relief under this section shall be deducted from or set off against the income (not being income referred to in subsection (2)(a) of section 25) of the borrower for the year of assessment in which the interest is paid and tax shall be discharged or repaid accordingly.

(6) Where relief is given under this section in respect of interest on a loan, no relief or deduction under any other provision of the Tax Acts shall be given or allowed in respect of interest on the loan.”.

(2) This section shall be deemed to have applied as on and from 6 April 1997.

Amendment of Chapter 4 (revenue powers) of Part 38 of Principal Act.

**68.**—The Principal Act is amended in Chapter 4 of Part 38—

(a) in section 904A (inserted by the Finance Act, 1999)—

(i) by the substitution for the definition of “authorised officer” of the following definitions:

“ ‘auditor’ means a person who is qualified, for the purposes of Part X of the Companies Act, 1990, for appointment as auditor of a company, or any other person whom the Revenue Commissioners consider suitable, having regard to his or her qualifications or experience, for appointment as an authorised officer;

‘authorised officer’ means—

(a) an officer of the Revenue Commissioners who is authorised by them in writing to exercise the powers conferred by this section, and

[2000.]

*Finance Act, 2000.*

[No. 3.]

- (b) an auditor who is authorised by the Revenue Commissioners in writing to exercise the powers conferred by this section in relation to an audit of the return of a named relevant deposit taker for a specified year or years of assessment;

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‘associated company’, in relation to a relevant deposit taker, means a company which is itself a relevant deposit taker and which is the relevant deposit taker’s associated company within the meaning of section 432;’

and

- (ii) by the substitution for subsections (6) and (7) of the following:

“(6) An authorised officer may require an associated company in relation to a relevant deposit taker or an employee of such an associated company to produce books, records or other documents and to furnish information, explanations and particulars and to give all assistance, which the authorised officer reasonably requires for the purposes of his or her audit and examination under subsections (2) and (3) and, as the case may be, enquiries under subsection (4).

(7) An authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to him or her or require that copies of books, records, or other documents be made available to him or her, in exercising or performing his or her powers or duties under this section.

(8) An employee of a relevant deposit taker or of an associated company in relation to a relevant deposit taker, who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer’s powers or duties under this section shall be liable to a penalty of £1,000.

(9) A relevant deposit taker or an associated company in relation to a relevant deposit taker which fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer’s powers or duties under this section shall be liable to a penalty of £15,000 and if that failure continues a further penalty of £2,000 for each day on which the failure continues.”

- (b) by the insertion after section 904A of the following sections:

“Report to  
Committee of  
Public Accounts:  
publication etc.

904B.—(1) In this section—

‘appropriate tax’ and ‘relevant deposit taker’ have, respectively, the meanings assigned to them by section 256(1);

‘authorised officer’ has the meaning assigned to it by section 904A.

(2) Notwithstanding any obligation as to secrecy or other restriction upon disclosure of information imposed by or under statute or otherwise, the Revenue Commissioners—

(a) shall, before 1 November 2000, make a report in writing to the Committee of Public Accounts of Dáil Éireann, and

(b) may, at any time, cause to be made public a report, in such manner as they consider fit,

of the results (including interim results) of any audit carried out by an authorised officer under section 904A during the period from 25 March 1999 to the date the report is made.

(3) The report under subsection (2) shall be in respect of audits of relevant deposit takers for the years of assessment 1986-1987 to 1998-1999, and may specify, in respect of each such audit—

(a) the name of the relevant deposit taker concerned,

(b) the amount of additional appropriate tax payable by the relevant deposit taker as a result of the audit,

(c) the amount of interest payable in respect of any such amount,

(d) the amount of any fine or penalty imposed by a court on the relevant deposit taker under the Tax Acts, or accepted by the Revenue Commissioners in place of initiating proceedings for recovery of such fine or penalty,



- (e) whether an assessment has been made in respect of appropriate tax and, if so, whether the assessment has been appealed, Pt.1 S.68
- (f) whether the audit has been completed as at the date of the report,
- (g) the amount of any payment on account of appropriate tax paid by the relevant deposit taker in anticipation of an audit being carried out or during the course of an audit, and
- (h) such further particulars as the Revenue Commissioners consider fit.

Power of inspection (returns and collection of appropriate tax): assurance companies.

904C.—(1) In this section—

‘assurance company’ and ‘life business’ have, respectively, the meanings assigned to them in section 706;

‘appropriate tax’ has the meaning assigned to it in section 730F;

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘books, records or other documents’ includes—

- (a) any records used in the business of an assurance company whether—
- (i) comprised in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards, or
- (ii) kept on microfilm, magnetic tape or in any non-legible form (by use of electronics or otherwise) which is capable of being reproduced in a legible form, and
- (b) every electronic or other automatic means, if any, by which any such thing in

non-legible form is so capable of being reproduced, and

(c) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical means or partly mechanical process in use from time to time and documents which are produced by any photographic or photostatic process, and

(d) correspondence and records of other communications by, or on behalf of, policyholders with the assurance company carrying on life business;

'chargeable event', in relation to a life policy, has the meaning assigned to it by section 730C;

'declaration' means a declaration referred to in section 730E;

'liability', in relation to a person, means any liability in relation to tax to which the person is or may be, or may have been, subject, or the amount of such liability;

'life policy' has the meaning assigned to it in section 730B;

'policyholder' has the meaning assigned to it in section 730E;

'return' means a return under section 730G;

'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) An authorised officer may at all reasonable times enter any premises or place of business of an assurance company carrying on life business for the purposes of auditing for a financial year the returns made by the company of appropriate tax.

(3) Without prejudice to the generality of subsection (2) the authorised officer may—

(a) examine the procedures put in place by the assurance

company for the purpose of ensuring compliance by the assurance company with its obligations under Chapter 5 of Part 26, Pt.1 S.68

- (b) examine all or a sample of the declarations made to the assurance company,
- (c) examine a sample of life policies to determine whether—
  - (i) the procedures referred to in paragraph (a) have been observed in practice and whether they are adequate,
  - (ii) the assurance company has on the happening of chargeable events in relation to each life policy, paid the correct amount of appropriate tax in connection with the chargeable events, and
  - (iii) there is information in the assurance company's possession which can reasonably be taken to indicate that the assurance company incorrectly failed to pay appropriate tax in connection with a chargeable event.

(4) Where an authorised officer in exercising or performing his or her powers and duties under this section has reason to believe that in respect of one or more life policies, the assurance company has incorrectly failed to pay appropriate tax in connection with a chargeable event, the authorised officer may make such further enquiries as are necessary to establish whether there is a liability in relation to any person.

(5) An authorised officer may require an assurance company or an employee of the assurance company to produce books, records or other documents and to furnish information, explanations and particulars

and to give all assistance, which the authorised officer reasonably requires for the purposes of his or her audit and examination under subsections (2) and (3), and, as the case may be, enquiries under subsection (4).

(6) An authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to him or her or require that copies of books, records or other documents be made available to him or her, in exercising or performing his or her powers or duties under this section.

(7) An employee of an assurance company who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of £1,000.

(8) An assurance company which fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of £15,000 and if that failure continues a further penalty of £2,000 for each day on which the failure continues.

Power of inspection (returns and collection of appropriate tax): investment undertakings.

904D.—(1) In this section—

'appropriate tax' has the meaning assigned to it in section 739E;

'authorised officer' means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

'books, records or other documents' includes—

- (a) any records used in the business of an investment undertaking whether—
  - (i) comprised in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards, or
  - (ii) kept on microfilm, magnetic tape or in

any non-legible form Pt.1 S.68  
(by use of electronics  
or otherwise) which is  
capable of being  
reproduced in a leg-  
ible form, and

(b) every electronic or other  
automatic means, if any,  
by which any such thing in  
non-legible form is so cap-  
able of being reproduced,  
and

(c) documents in manuscript,  
documents which are  
typed, printed, stencilled  
or created by any other  
mechanical means or  
partly mechanical process  
in use from time to time  
and documents which are  
produced by any photo-  
graphic or photostatic pro-  
cess, and

(d) correspondence and records  
of other communications  
by, or on behalf of, unit  
holders with the invest-  
ment undertaking;

‘declaration’ means a declaration  
referred to in Schedule 2B;

‘investment undertaking’ and ‘unit  
holder’ have, respectively, the mean-  
ings assigned to them by section 739B;

‘liability’, in relation to a person,  
means any liability in relation to tax  
to which the person is or may be, or  
may have been, subject, or the  
amount of such liability;

‘return’ means a return under section  
739F;

‘tax’ means any tax, duty, levy or  
charge under the care and manage-  
ment of the Revenue Commissioners.

(2) An authorised officer may at all  
reasonable times enter any premises  
or place of business of an investment  
undertaking for the purposes of audit-  
ing for a financial year the returns  
made by the investment undertaking  
of appropriate tax.

(3) Without prejudice to the gener-  
ality of subsection (2) the authorised  
officer may—

- (a) examine the procedures put in place by the investment undertaking for the purpose of ensuring compliance by the investment undertaking with its obligations under Chapter 1A of Part 27,
- (b) examine all or a sample of the declarations made to the investment undertaking,
- (c) examine transactions in relation to a sample of unit holders to determine whether—
  - (i) the procedures referred to in paragraph (a) have been observed in practice and whether they are adequate,
  - (ii) the investment undertaking has, on the happening of a chargeable event in relation to a unit holder, paid the correct amount of appropriate tax in connection with the chargeable event, and
  - (iii) there is information in the investment undertaking's possession which can reasonably be taken to indicate that the investment undertaking incorrectly failed to pay appropriate tax in connection with a chargeable event.

(4) Where an authorised officer in exercising or performing his or her powers and duties under this section has reason to believe that in respect of one or more unit holders, the investment undertaking has incorrectly failed to pay appropriate tax in connection with a chargeable event, the authorised officer may make such further enquiries as are necessary to establish whether there is a liability in relation to any person.

(5) An authorised officer may require an investment undertaking or

an employee of the investment undertaking to produce books, records or other documents and to furnish information, explanations and particulars and to give all assistance, which the authorised officer reasonably requires for the purposes of his or her audit and examination under subsections (2) and (3), and, as the case may be, enquiries under subsection (4).

(6) An authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to him or her or require that copies of books, records or other documents be made available to him or her, in exercising or performing his or her powers or duties under this section.

(7) An employee of an investment undertaking who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of £1,000.

(8) An investment undertaking which fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of £15,000 and if that failure continues a further penalty of £2,000 for each day on which the failure continues.”,

(c) in sections 906A(1) and 908A(1), by the substitution for the definition of “financial institution” of the following:

“‘financial institution’ means—

- (a) a person who holds or has held a licence under section 9 of the Central Bank Act, 1971,
- (b) a person referred to in section 7(4) of the Central Bank Act, 1971, or
- (c) a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992)) which has been authorised by the Central Bank of Ireland to carry on business of a credit institution in accordance with the provisions of the supervisory enactments (within the meaning of those Regulations);”,

and

(d) in section 908A, by the substitution for subsection (2) of the following:

“(2) (a) In this subsection ‘documentation’ includes information kept on microfilm, magnetic tape or in any non-legible form (by use of electronics or otherwise) which is capable of being reproduced in a permanent legible form.

(b) If, on application made by an authorised officer, with the consent in writing of a Revenue Commissioner, a judge is satisfied, on information given on oath by the authorised officer, that there are reasonable grounds for suspecting—

(i) that an offence which would result in serious prejudice to the proper assessment or collection of tax is being, has been or is about to be committed (having regard to the amount of a liability in relation to any person which might be evaded but for the detection of the relevant facts), and

(ii) that there is material in the possession of a financial institution specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the relevant facts,

the judge may make an order authorising the authorised officer to inspect and take copies of any entries in the books, records or other documents of the financial institution, or of any documentation associated with or relating to an entry in such books, records or other documents, for the purposes of investigation of the relevant facts.”.

Amendments and repeals consequential on abolition of tax credits.

**69.**—(1) The provisions of the Taxes Consolidation Act, 1997, referred to in *Part 1 of Schedule 2* shall apply subject to the amendments specified in that Schedule.

(2) Every provision of the Taxes Consolidation Act, 1997, specified in *column (1) of Part 2 of Schedule 2* to this Act is repealed to the extent specified in *column (2) of that Schedule*.

(3) This section shall apply—

(a) in the case of income tax, as on and from 6 April 1999, and

(b) in the case of corporation tax, as respects accounting periods commencing on or after that date.

Restrictions on the use by certain partnerships of losses, etc., and transitional arrangements concerning these restrictions.

**70.**—(1) Section 1013 of the Principal Act is amended—

(a) in subsection (1), by the substitution for paragraph (d) of the definition of “limited partner” of the following:

“(d) a person who carries on the trade as a general partner in a partnership otherwise than as an active partner;”.



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(b) in subsection (2), by the substitution for subparagraph (III) Pt.1 S.70 of the following:

“(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—

(A) in the case of such a partner where the activities of the trade include the activity of producing, distributing, or the holding of or of an interest in, films or video tapes or the activity of exploring for, or exploiting, oil or gas resources, the year of assessment 1997-1998 or any subsequent year of assessment, subject to subsection (2A), or

(B) in any other case, the year of assessment 1999-2000 or any subsequent year of assessment, subject to subsection (2B),

only against income consisting of profits or gains arising from the trade,”,

(c) in subsection (2A), by the substitution for “Subparagraph (III)” of “Subparagraph (III)(A)”, and

(d) by the insertion after subsection (2A) of the following:

“(2B) Subparagraph (III)(B) of subsection (2)(a) shall not apply to—

(a) interest paid on or before 29 February 2000,

(b) an allowance to be made in respect of expenditure incurred on or before 29 February 2000, or

(c) a loss sustained in the year of assessment 1999-2000 which would have been the loss sustained in that year if—

(i) that year of assessment had ended on 29 February 2000, and

(ii) the loss were determined only by reference to accounts made up in relation to the trade for the period commencing on 6 April 1999 or, if later, the date the trade commenced and ending on 29 February 2000 and not by reference to accounts made up for any other period.

(2C) (a) In this subsection—

‘excepted expenditure’ means expenditure to which the provisions of section 409A apply and expenditure to which the provisions of that section or section 409B would apply but for the provisions of—

- (i) section 409A(5), or
- (ii) paragraph (a) of the definition of 'specified building' in subsection (1) or (4) of section 409B,

as the case may be;

'specified deduction' means the deduction referred to in section 324(2), 333(2), 345(3), 354(3), 370(3), 372E(3) or 372O(3) as the 'second-mentioned deduction' or in paragraph 13 of Schedule 32 as the 'further deduction';

'specified individual', in relation to a partnership trade, means an individual who is a limited partner in relation to the trade by virtue only of paragraph (d) of the definition of 'limited partner', and a reference to a specified individual shall be construed accordingly.

- (b) (i) Subsection (2)(a) shall not apply to a specified individual to which paragraph (c), (d) or (e), as the case may be, applies to the extent that—

- (I) the interest referred to in subparagraph (i) of paragraph (a) of that subsection is interest paid by the individual by reason of his or her participation in a trade referred to in paragraph (c), (d) or (e), as the case may be, in a relevant year of assessment,

- (II) the loss referred to in subparagraph (i) of paragraph (a) of that subsection is a loss sustained by the individual in a trade referred to in paragraph (c), (d) or (e), as the case may be, in a relevant year of assessment,

- (III) the allowance referred to in subparagraph (ii) of paragraph (a) of that subsection is an allowance to be made to the individual for a relevant year of assessment either in taxing a trade or by means of discharge or repayment of tax to which he or she is entitled by reason of his or her participation in a trade referred to in paragraph (c), (d) or (e), as the case may be.

- (ii) Subsection (2)(a) shall not apply to a specified individual to the extent that—

- (I) the interest referred to in subparagraph (i) of paragraph (a) of that subsection is interest paid by the

individual on a loan where the proceeds of the loan were used by the partnership to incur excepted expenditure in a relevant year of assessment, Pt.1 S.70

- (II) the loss referred to in subparagraph (i) of paragraph (a) of that subsection arises from the taking into account for the purposes of section 392(1) of an allowance to be made in respect of excepted expenditure, or
  - (III) the allowance referred to in subparagraph (ii) of paragraph (a) of that subsection is an allowance to be made to the individual for a relevant year of assessment in respect of excepted expenditure.
- (c) This paragraph applies to a specified individual where—
- (i) the partnership trade consists wholly of the leasing of machinery or plant to a qualifying company within the meaning of section 486B, and
  - (ii) the expenditure incurred on the provision of the machinery or plant was incurred under an obligation entered into by the lessor (within the meaning of section 403) and the lessee (within the meaning of section 403) before 1 March 2001.
- (d) This paragraph applies to a specified individual where in charging the profits or gains of the individual's several trade an allowance in respect of capital expenditure on machinery or plant to which the provisions of section 284(3A) apply has been or is to be made to that individual; but this paragraph shall not apply to such an individual as respects—
- (i) interest paid by that individual on a loan taken out on or after 4 September 2000,
  - (ii) an allowance to be made to that individual for capital expenditure incurred on or after 4 September 2000, or
  - (iii) a loss sustained in the trade in the year of assessment 2001-2002 or any subsequent year of assessment to the extent that the loss does not arise from the taking into account for the purposes of section 392(1) of an allowance to be made in accordance with the provisions of section 284(3A).

(e) This paragraph applies to a specified individual where in computing the amount of the profits or gains, if any, of the partnership trade a specified deduction has been or is to be allowed in respect of a premises occupied by the partnership for the purposes of the partnership trade, and—

- (i) the individual became a partner in the partnership before 29 February 2000,
- (ii) the individual made a contribution to the partnership trade before that date, and
- (iii) the qualifying lease in respect of which a specified deduction has been or is to be allowed was granted to or acquired by the partnership before that date;

but—

(I) subject to clause (II), this paragraph shall not apply to such an individual as respects—

- (A) interest paid by that individual in,
- (B) an allowance to be made to that individual for, or
- (C) any loss sustained in the trade for,

any year of assessment for which a specified deduction in respect of the premises is not allowed in arriving at the amount of the profits or gains of the individual's several trade to be charged to tax or, as the case may be, the loss sustained therein or any subsequent year of assessment, and

(II) where in computing the amount of the profits or gains, if any, of the partnership trade a second-mentioned deduction (within the meaning of section 354(3)) may be made by virtue of section 354(3), this paragraph shall not apply to such an individual as respects—

- (A) interest paid by that individual on or after 6 April 2004,
- (B) an allowance to be made to that individual for the year of assessment 2004-2005 or any subsequent year of assessment, or
- (C) any loss sustained in that trade in the year of assessment 2004-2005 or any subsequent year of assessment.”.

(2) This section shall apply as on and from 29 February 2000.

71.—(1) Schedule 24 of the Principal Act is amended—

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- (a) in paragraph 4(4), by the substitution for clauses (a) to (c) and the words “gain is reduced by virtue of—”, which immediately precede those clauses, of the following:

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

“gain—

- (a) is charged at the rate specified in section 21A, the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be the rate so specified,
- (b) is reduced by virtue of section 448 by any fraction, the rate of tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as reduced by that fraction,
- (c) is to be computed in accordance with section 713(3) or 738(2), the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as the standard rate of income tax,
- (d) is to be computed in accordance with section 723(6), the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as 20 per cent,
- (e) is reduced by virtue of section 644B, the rate of corporation tax payable by the company on its income and chargeable gains for the relevant accounting period shall be treated as reduced by that fraction,”

and

(b) in paragraph 9B—

- (i) by the substitution in subparagraph (2) for “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 to which it would be taken into account” of:

“there shall be treated for the purposes of subparagraph (1) as tax paid by the foreign company in respect of its profits—

- (a) any underlying tax payable by the third company, and
- (b) any tax directly charged on the dividend which neither company would have borne had the dividend not been paid,

to the extent to which it would be taken into account”,

and

- (ii) in subparagraph (3) by the insertion after “tax payable by the fourth company” of “or tax directly charged on the dividend”.

(2) (a) This section shall—

- (i) in the case of *subsection (1)(a)*, apply as respects accounting periods ending on or after 1 January 2000, and

- (ii) in the case of *subsection (1)(b)*, be deemed to have applied as respects accounting periods ending on or after 1 April 1998.

(b) For the purposes of *paragraph (a)(i)*, where an accounting period of a company begins before 1 January 2000 and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on 31 December 1999 and the other beginning on 1 January 2000 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  
Schedule 29 to  
Principal Act.

**72.**—The Principal Act is amended in Schedule 29, in column 1, by the insertion after “section 531 and Regulations under that section” of:

“section 730G(2)

section 739F(2)”.

Treatment of  
interest in certain  
circumstances.

**73.**—(1) Chapter 2 of Part 33 of the Principal Act is amended by the insertion after section 817 of the following sections:

“Restriction of  
relief for payments  
of interest.

**817A.**—(1) Relief shall not be given to any person under Part 8 in respect of any payment of interest, including interest treated as a charge on income, if a scheme has been effected or arrangements have been made such that the sole or main benefit that might be expected to accrue to that person from the transaction under which the interest is paid is the obtaining of a reduction in tax liability by means of any such relief.

(2) Where relief in respect of interest paid, being interest treated as a charge on income, is claimed by virtue of section 420(6), any question under this section as to what benefit might be expected to accrue from the transaction under which that interest is paid shall be determined by reference to the claimant company (within the meaning of section 411(2)) and the surrendering company (within the meaning of that section) taken together.

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Treatment of  
interest in certain  
circumstances.

817B.—(1) (a) In this section—

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‘chargeable period’ means an accounting period of a company or a year of assessment, and a reference to a chargeable period or its basis period is a reference to the chargeable period if it is an accounting period and to the basis period for it if it is a year of assessment;

‘basis period’ means the period on the profits or gains of which income tax is to be finally computed under Schedule D or, where by virtue of the Income Tax Acts the profits or gains of any other period are to be taken to be the profits or gains of that period, that other period.

(b) For the purposes of this section, in relation to interest which is to be taken into account in computing income chargeable to tax under Case I of Schedule D—

(i) where 2 basis periods overlap, the period common to both shall be deemed to fall in the first basis period only,

(ii) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, the interval shall be deemed to be part of the first basis period, and

(iii) the reference in subparagraph (i) to the overlapping of 2 periods shall be construed as including a reference to the coincidence of 2 periods or to the

inclusion of one period in another, and the reference to the period common to both shall be construed accordingly.

(2) Notwithstanding any other provision of the Tax Acts, where, in relation to a chargeable period (in this subsection referred to as the 'earlier chargeable period'), a person receives interest in the chargeable period or its basis period, so much of the amount of the interest as, apart from this section—

(a) would not be taken into account in computing the person's income chargeable to tax under Schedule D for the earlier chargeable period, and

(b) would be so taken into account for a subsequent chargeable period or subsequent chargeable periods,

shall be taken into account in computing the person's income so chargeable for the earlier chargeable period and shall not be so taken into account for the subsequent chargeable period or, as the case may be, the subsequent chargeable periods."

(2) This section applies, in the case of the insertion into Chapter 2 of Part 33 of the Principal Act of—

(a) section 817A, to interest paid, and

(b) section 817B, to interest received,

on or after 29 February 2000.

Amendment of section 213 (trade unions) of Principal Act.

**74.**—Section 213 of the Principal Act is amended by the substitution for subsections (2) and (3) of the following:

“(2) A registered trade union which is precluded by statute or by its rules from assuring to any persons a sum exceeding £8,000 by means of gross sum or £2,000 a year by means of annuity shall be entitled to exemption from income tax under Schedules C, D and F in respect of its interest and dividends which are applicable and applied solely for one or more of the following purposes—

(a) provident benefits, and

(b) the education, training or retraining of its members and dependent children of members.

(3) Every claim under this section shall be verified in such manner (including by affidavit) as may be specified by the Revenue Commissioners and proof of the claim may be given by the



treasurer, trustee or any duly authorised agent of the trade union concerned.” Pt.1 S.74

## Chapter 5

### *Corporation Tax*

**75.—(1)** Section 21A (inserted by the Finance Act, 1999) of the Principal Act is amended—

Amendment of section 21A (higher rate of corporation tax) of Principal Act.

(a) in subsection (1)—

(i) by the substitution for paragraph (a) of the definition of “excepted operations” of the following:

“(a) dealing in or developing land, other than such part of that operation or activity as consists of—

(i) construction operations, or

(ii) dealing by a company in land which, in relation to the company, is qualifying land,”

(ii) by the insertion after the definition of “excepted trade” of the following definition:

“‘exempt development’ means a development within Class 1 of Part 1 of the Second Schedule to the Local Government Planning and Development Regulations, 1994 (S.I. No. 86 of 1994), which complies with the conditions and limitations specified in column 2 of that Part which relate to that Class;”

and

(iii) by the insertion, after the definition of “petroleum rights” of the following definition:

“‘qualifying land’, in relation to a company, means land which is disposed of at any time by the company, being land—

(a) on which a building or structure had been constructed by or for the company before that time, and

(b) which had been developed by or for the company to such an extent that it could reasonably be expected at that time that no further development (within the meaning of section 639) of the land would be carried out in the period of 20 years beginning at that time (other than a development which is not material and which is intended to facilitate the occupation of, and the use or enjoyment of, the building or structure for the purposes for which it was constructed) and for those purposes a development of land on which a building or buildings had been

constructed shall not be material if it consists of one or both of the following—

- (i) an exempt development, and
- (ii) a development, not being an exempt development, if the total floor area of the building or buildings on the land after such development is not greater than 120 per cent of the total floor area of the building or buildings on the land calculated without regard to that development;”,

and

(b) by the substitution for subsections (3) and (4) of the following:

“(3) (a) Notwithstanding section 21, but subject to subsection (4), corporation tax shall be charged on the profits of companies, in so far as those profits consist of income chargeable to corporation tax under Case III, IV or V of Schedule D or of income of an excepted trade, at the rate of 25 per cent for the financial year 2000 and subsequent financial years.

(b) For the purposes of paragraph (a), the profits of a company for an accounting period shall be treated as consisting of income of an excepted trade to the extent of the income of the trade for the accounting period after deducting from the amount of that income the amount of charges on income paid in the accounting period wholly and exclusively for the purposes of that trade.

(4) This section shall not apply to the profits of a company for any accounting period—

(a) to the extent that those profits consist of income from the sale of goods within the meaning of section 454, and

(b) to the extent that those profits consist of income which arises in the course of any of the following trades—

(i) non-life insurance,

(ii) reinsurance, and

(iii) life business, in so far as the income is attributable to shareholders of the company.

(5) (a) Notwithstanding subsection (1), as respects an accounting period ending before 1 January 2001, operations carried out in relation to residential development land (within the meaning of section 644A)

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shall be treated for the purposes of this section as not being construction operations if they consist of— Pt.1 S.75

- (i) the demolition or dismantling of any building or structure on the land,
- (ii) the construction or demolition of any works forming part of the land, being roadworks, water mains, wells, sewers or installations for the purposes of land drainage, or
- (iii) any other operations which are preparatory to residential development on the land other than the laying of foundations for such development.

(b) For the purposes of this subsection, where an accounting period of a company begins before 1 January 2001 and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on 31 December 2000 and the other beginning on 1 January 2001 and ending on the day on which the accounting period ends, and both parts shall be treated for the purpose of this section as if they were separate accounting periods of the company.”.

(2) This section shall apply for the financial year 2000 and subsequent financial years.

**76.**—The Principal Act is amended in Chapter 2 of Part 2 by the insertion of the following section after section 22:

Reduction of corporation tax liability in respect of certain trading income.

“22A.—(1) In this section—

‘income from the sale of goods’, in relation to an accounting period of a company, means such income as is income from the sale of those goods in the course of a trade carried on by the company for the purposes of a claim under section 448(3);

‘net relevant trading income’, in relation to an accounting period of a company, means the excess of the amount of relevant trading income of the company for the accounting period over the aggregate of the amounts of—

- (a) relevant charges on income paid by the company in the accounting period, and
- (b) any relevant trading loss incurred by the company in the accounting period;

‘relevant charges on income’, in relation to an accounting period of a company, means the charges on income paid by the company in the accounting period wholly and exclusively for the purposes of a trade carried on by the company other than so much of those charges as are—

- (a) charges on income paid for the purposes of the sale of goods within the meaning of section 454, or

- (b) charges on income paid for the purposes of an excepted trade within the meaning of section 21A;

'relevant trading income', in relation to an accounting period of a company, means the trading income of the company for the accounting period (not being income chargeable to tax under Case III of Schedule D) other than so much of that income as is—

- (a) income from the sale of goods, or
- (b) income of an excepted trade within the meaning of section 21A;

'relevant trading loss', in relation to an accounting period of a company, means a loss incurred in the accounting period in a trade carried on by the company other than so much of the loss as is—

- (i) a loss from the sale of goods within the meaning of section 455, or
- (ii) a loss incurred in an excepted trade within the meaning of section 21A;

'trading income', in relation to an accounting period of a company, means the income which is to be included in respect of a trade or trades in the total profits of the company for the accounting period as reduced by the amount of any loss set off against that income under section 396(1).

(2) Subject to subsections (7) and (8), where in any accounting period ending on or after 1 January 2000 the net relevant trading income of a company does not exceed the upper relevant maximum amount, then the corporation tax charged on the company for that accounting period shall be reduced—

- (a) where the net relevant trading income of the company does not exceed the lower relevant maximum amount, by such amount as will secure that the corporation tax charged on the company for the accounting period does not exceed the corporation tax which, apart from this section, would have been charged on the company for the accounting period if—

- (i) in section 21 for paragraphs (c) to (f) of subsection (1) there were substituted the following paragraph:

'(c) 12.5 per cent for the financial year 2000 and each subsequent financial year.'

and

- (ii) in section 448 for paragraphs (c) to (f) of subsection (2) there were substituted the following paragraph:

'(c) by one-fifth, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2000 or any subsequent financial year.'

and

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(b) where the net relevant trading income of the company exceeds the lower relevant maximum amount, by a sum equal to—

(i) as respects an accounting period falling within the financial year 2000, 23 per cent,

(ii) as respects an accounting period falling within the financial year 2001, 15 per cent, and

(iii) as respects an accounting period falling within the financial year 2002, 7 per cent,

of the excess of the upper relevant maximum amount over the net relevant trading income for the accounting period.

(3) The lower and upper relevant maximum amounts mentioned in subsection (2) shall be determined as follows:

(a) where the company has no associated company in the accounting period, those amounts are £50,000 and £75,000, respectively,

(b) where the company has one or more associated companies in the accounting period, the lower relevant maximum amount is £50,000 divided by one plus the number of those associated companies and the upper relevant maximum amount is £75,000 divided by one plus the number of those associated companies.

(4) (a) In this subsection 'control' shall be construed in accordance with section 432.

(b) In applying this section to any accounting period of a company, an associated company which has no net relevant trading income for that accounting period (or, if an associated company during part only of that accounting period, for that part of that accounting period) shall be disregarded and, for the purposes of this section, a company shall be treated as an 'associated company' of another company at a given time if at that time one of the two has control of the other or both are under the control of the same person or persons.

(5) In determining how many associated companies a company has in an accounting period or whether a company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.

(6) For an accounting period of less than 12 months the relevant maximum amounts determined in accordance with subsection (3) shall be proportionately reduced.

(7) (a) Where, in the case of a company which has one or more associated companies in an accounting period—

- (i) the accounting period of the company ends on a date on which accounting periods of all of the associated companies end, and
- (ii) the company and all of the associated companies jointly elect in writing that this subsection shall apply,

then—

- (I) the relief under subsection (2) shall be computed as if, in relation to the accounting period, the company and all of the associated companies were a single company (with no associated companies) with an accounting period ending on that date and beginning at the earliest date on which the accounting period of the company, or of any of the associated companies, begins, and
- (II) the relief as so computed shall be allocated to the accounting period of the company and to the accounting periods of its associated companies in such manner as is specified in the election, and the amount so allocated to a company shall be deemed to be the relief under this section in relation to the accounting period of the company.

(b) Notwithstanding paragraph (a)—

- (i) the aggregate of amounts allocated under subparagraph (II) of that paragraph for an accounting period shall not exceed the relief computed under subparagraph (I) of that paragraph, and
  - (ii) the amount allocated to an accounting period of a company shall not exceed the amount which would have been the relief in relation to the accounting period if the company had no associated companies in the accounting period.
- (8) (a) Subject to paragraph (b), where, in the case of a company which has one or more associated companies in an accounting period, the end of the accounting period of the company and the end of an accounting period of each of its associated companies do not coincide—
- (i) subsection (7) shall apply as respects any period (in this subsection referred to as a 'relevant period') which falls into the accounting period of the company and an accounting period of each of the associated companies as if the relevant period were an accounting period of the company and of the associated companies,
  - (ii) the relief allocated to any company in respect of a relevant period shall be deemed to be the relief in relation to that period, and
  - (iii) where an amount of relief has been allocated to a company in respect of a relevant period falling into an accounting period of the company, the relief for the accounting period of the company shall be the aggregate of—

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(I) any relief in relation to relevant periods falling into the accounting period, and

(II) the amounts which would be the relief in relation to any periods (which are not relevant periods) within the accounting period if each of those periods was treated as an accounting period.

(b) The relief under paragraph (a) in relation to an accounting period of a company shall not exceed the amount which would be the relief in relation to the accounting period if the company had no associated companies in the accounting period.

(9) For the purposes of this section, where an accounting period of a company begins before 1 January of a financial year and ends on or after that date, it shall be divided into 2 parts, one beginning on the date on which the accounting period begins and ending on 31 December of the preceding financial year and the other beginning on 1 January of the financial year and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.

(10) (a) A company shall include in the return required to be delivered under section 951—

(i) a statement specifying—

(I) the amount of relief to be given to it under this section, and

(II) the number of companies which are its associated companies in relation to the accounting period,

and

(ii) a copy of any election made under subsection (7).

(b) A company which has specified an amount under paragraph (a) shall not be entitled to alter the amount so specified.

(11) Subsection (2) of section 21A shall apply for the purposes of this section.”.

77.—(1) Section 23A (inserted by the Finance Act, 1999) of the Principal Act is amended in subsection (1)(b)(i)—

Amendment of section 23A (company residence) of Principal Act.

(a) by the substitution of the following for clause (II):

“(II) section 9 shall apply as it would apply for the purposes of the Tax Acts if in paragraph (b) of subsection (1) of that section ‘50 per cent’ were substituted for ‘75 per cent’ in both places where it occurs, and”.

and

(b) in subclause (B) of clause (III) by the deletion of “subparagraph (iii) of”.

(2) This section shall apply as on and from 10 February 2000.

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Amendment of section 882 (particulars to be supplied by new companies) of Principal Act.

**78.**—Section 882 (as amended by the Finance Act, 1999) of the Principal Act is amended by the substitution for subsection (3) of the following subsection:

“(3) Where a company fails to deliver a statement which it is required to deliver under this section, then, notwithstanding any obligations as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise—

- (a) the Revenue Commissioners, or
- (b) such officer of the Revenue Commissioners as is nominated by the Commissioners for the purposes of this section,

may give a notice in writing, or in such other form as the Revenue Commissioners may decide, to the registrar of companies (within the meaning of the Companies Act, 1963) stating that the company has so failed to deliver a statement under this section.”.

Amendment of section 411 (surrender of relief between members of groups and consortia) of Principal Act.

**79.**—Section 411 of the Principal Act is amended by the substitution in subsection (1)(a) of “a company shall be owned by a consortium if 75 per cent or more of the ordinary share capital” for “a company shall be owned by a consortium if all of the ordinary share capital”.

Amendment of section 446 (certain trading operations carried on in Custom House Docks Area) of Principal Act.

**80.**—Section 446 of the Principal Act is amended—

- (a) by the insertion after subsection (2A) of the following:

“(2B) Where—

- (a) on 31 March 2000 the relevant trading operations of a qualified company are the carrying on of a business of managing the activities or the whole or part of the assets of a specified collective investment undertaking (within the meaning of section 734(1)), and
- (b) at any time after 31 March 2000 the specified collective investment undertaking ceases to be a specified collective investment undertaking but is an investment undertaking (within the meaning of section 739B),

then that business at that time, to the extent that the management can be directly attributed to be for the benefit of unit holders (within the meaning of section 739B) in the investment undertaking who are persons resident outside the State, shall be deemed to be relevant trading operations and to have been specified as relevant trading operations in the certificate given to the qualified company under subsection (2); and for the purposes of the Tax Acts, such apportionment as is just and reasonable may be made of any profits arising to the qualified company.

(2C) Where—

- (a) on 31 December 2000 the relevant trading operations of a qualified company are the carrying



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on of a life business (within the meaning of Pt.1 S.80 section 706(1)), and

- (b) at any time after 31 December 2000 the qualified company would be in breach of the conditions under which a certificate was given to the qualified company under subsection (2), solely by virtue of the qualified company commencing policies or contracts with persons who reside in the State,

then the trading operations of the qualified company at that time, to the extent that they are trading operations carried on with persons resident outside the State, shall be deemed to be relevant trading operations and the conditions under which the certificate was given shall be deemed not to have been breached; and for the purposes of the Tax Acts, such apportionment as is just and reasonable may be made of any profits arising to the qualified company.

(2D) Where on 31 March 2000 the trading operations of a qualified company are the carrying on of a business of managing the activities or the whole or part of the assets of a qualifying company (within the meaning of section 110), then such management shall, at any time after 31 March 2000 and to the extent referred to in subsection (7)(c)(ii)(V)(C) (inserted by the *Finance Act, 2000*), be deemed to be relevant trading operations and to have been specified as relevant trading operations in the certificate given to the qualified company under subsection (2); and for the purposes of the Tax Acts such apportionment as is just and reasonable may be made of any profits arising to the qualified company.”,

- (b) in subsection (7)(c)(ii) by the substitution for clause (V) of the following:

“(V) the management of the activities or the whole or part of the assets of—

- (A) a specified collective investment undertaking (within the meaning of section 734),
- (B) an investment undertaking (within the meaning of section 739B) to the extent that the management can be directly attributed to be for the benefit of unit holders (within the said meaning) in the investment undertaking who are persons resident outside the State; and for the purposes of the Tax Acts, such apportionment as is just and reasonable may be made of any profits arising to a qualified company,
- (C) a qualifying company (within the meaning of section 110), to the extent that the management directly relates to assets of the qualifying company which the qualifying company acquired directly or indirectly from an originator (within the

said meaning) not being assets which were created, acquired or held by or in connection with a branch or agency through which the originator carries on a trade in the State.”,

and

(c) by the insertion after subsection (8) of the following:

“(8A) Where the trading operations of a qualified company, for the purposes of carrying on its relevant trading operations, include the procurement of services from a person who is resident in the State and, in the opinion of the Minister such procurement will contribute to the development of the Area as an International Financial Services Centre, the procurement shall be regarded for the purposes of the Tax Acts as part of the relevant trading operations of the qualified company and to have been specified as relevant trading operations in the certificate given to the qualified company under subsection (2) where they are not so specified.”.

**81.—(1)** The Principal Act is amended in Chapter 1 of Part 26—

(a) by the substitution in section 711 for subsection (1) of the following:

“(1) For the purposes of computing corporation tax on chargeable gains accruing to a fund or funds maintained by an assurance company in respect of its life business—

(a) (i) section 556, and

(ii) section 607,

shall not apply,

(b) section 581 shall, as respects—

(i) subsections (1) and (2) of that section, and

(ii) subsection (3) of that section, in so far as a chargeable gain is not thereby disregarded for the purposes of that subsection,

apply as if paragraph 24 of Schedule 32, section 719, section 723(7)(a) and paragraph (a) (ii) had not been enacted,

(c) the amount of capital gains tax computed for the purposes of section 78(2), otherwise than in respect of the special investment fund, is the amount so computed as if, notwithstanding section 28(3), the rate of capital gains tax were—

(i) throughout the financial year 1999, subject to paragraph (d), 40 per cent, and

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- (ii) throughout each subsequent financial year, Pt.1 S.81  
the rate of corporation tax specified in  
section 21(1) for that financial year,

and

- (d) where for an accounting period the expenses of management (within the meaning of section 83 as applied by section 707), deductible exceeds the amount of profits from which they are deductible, the reference in paragraph (c)(i) to 40 per cent shall be a reference to the rate of corporation tax referred to in section 21(1) for the financial year 1999.”,

and

- (b) in section 713—

- (i) by the deletion of subsection (2),  
(ii) by the substitution for subsection (3) of the following:

“(3) Notwithstanding sections 21(1) and 21A and subject to subsection (6)(b), corporation tax shall be charged in respect of the part specified in subsection (6)(a) of unrelieved profits of an accounting period of an assurance company from investments referable to life business, other than special investment business, at the rate determined by the formula—

$$\frac{(N2 \times SR1) + (N3 \times SR2)}{N1}$$

where—

N1 is the number of months in the accounting period,

N2 is the number of months from the day of the commencement of the accounting period to the earlier of—

- (a) the end of the year of assessment (in this subsection referred to as the ‘first year of assessment’) in which that day falls, and

- (b) the end of the accounting period,

N3 is N1 reduced by N2,

SR1 is the standard rate for the first year of assessment, and

SR2 is the standard rate for the year of assessment immediately subsequent to the first year of assessment.”,

and

- (iii) by the deletion of subsection (4).

- (2) *Subsection (1)*—

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- (a) as respects *paragraph (a)*, is deemed to apply for the financial year 1999 and subsequent financial years, and
- (b) as respects *paragraph (b)*, is deemed to have effect for the financial year 2000 and subsequent financial years.

Amendment of  
section 110  
(securitisation of  
assets) of Principal  
Act.

**82.—(1)** Section 110 of the Principal Act is amended—

- (a) in the definition of “qualifying company” in subsection (1), by the insertion after “arm’s length” of “, apart from a transaction where the provisions of paragraph (a) of subsection (3) apply to any interest or other distribution payable under the transaction unless the transaction concerned is excluded from the provisions of that paragraph (a) by virtue of paragraph (b) of that subsection”,

and

- (b) by the insertion after subsection (2) of the following:

“(3) (a) Any interest or other distribution which—

- (i) is paid out of assets of a qualifying company, directly or indirectly, to—

(I) an original lender or, as the case may be, an originator,

(II) a company which is a 75 per cent subsidiary of the original lender or the originator,

(III) a company of which the original lender or the originator is a 75 per cent subsidiary, or

(IV) a company (other than the original lender or the originator) which is a 75 per cent subsidiary of a company such as is referred to in clause (III),

and

- (ii) is so paid in respect of a security falling within section 130(2)(d)(iii),

shall not be a distribution by virtue only of section 130(2)(d)(iii) unless the application of this paragraph is excluded by paragraph (b).

(b) Paragraph (a) shall not apply where—

- (i) an original lender or, as the case may be, an originator,

(ii) a company which is a 75 per cent subsidiary of the original lender or the originator,

(iii) a company of which the original lender or the originator is a 75 per cent subsidiary, or

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- (iv) a company (other than the original lender or the originator) which is a 75 per cent subsidiary of a company such as is referred to in subparagraph (iii),

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(in this paragraph referred to as the ‘lender’) advances an amount or amounts of money to a qualifying company in respect of securities falling within section 130(2)(d)(iii) held, directly or indirectly, by the lender which amount or the total of which amounts, at any time, is in excess of 25 per cent of the market value of all qualifying assets acquired by the qualifying company from that original lender or originator at the time of the acquisition of the qualifying assets.”.

(2) *Subsection (1)* shall apply as respects any interest paid on or after 10 February 2000.

**83.—**(1) Part 14 of the Principal Act is amended—

- (a) in section 445, by the substitution for subsection (6) of the following:

“(6) Where the Minister and a company in relation to which a certificate under subsection (2) has been given—

- (a) agree to the revocation of that certificate, or
- (b) agree to the revocation of that certificate and its replacement by another certificate to be given to the company under subsection (2),

the Minister may by notice in writing served by registered post on the company, revoke the first-mentioned certificate with effect from such date as may be specified in the notice; but this subsection shall not affect the operation of subsection (4) or (5).”.

- (b) in section 446—

- (i) by the substitution in subsection (2) of “subsection (4), (5), (5A) or (6)” for “subsection (4), (5) or (6)”,
- (ii) by the insertion after subsection (5) of the following:

“(5A) Notwithstanding subsection (5), where, in the case of a company in relation to which a certificate under subsection (2) has been given, the Minister receives a notification from the Central Bank of Ireland in accordance with section 96 of the Central Bank Act, 1989, as to the non-compliance by the company with any obligation imposed on it by the Central Bank of Ireland under Chapter VII of the Central Bank Act, 1989, the Minister shall, by notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the notice.”.

and

Amendment of Part 14 (taxation of companies engaged in manufacturing trades, certain trading operations carried on in Shannon Airport and certain trading operations carried on in the Custom House Docks Area) of Principal Act.

(iii) by the substitution for subsection (6) of the following:

“(6) Where the Minister and a company in relation to which a certificate under subsection (2) has been given—

(a) agree to the revocation of that certificate, or

(b) agree to the revocation of that certificate and its replacement by another certificate to be given to the company under subsection (2),

the Minister may by notice in writing served by registered post on the company, revoke the first-mentioned certificate with effect from such date as may be specified in the notice; but this subsection shall not affect the operation of subsection (4), (5) or (5A).”.

(c) by the substitution for section 447 of the following:

“Appeals. 447.—An appeal to the Appeal Commissioners shall lie on any question arising under this Part (apart from any question arising under section 445 or 446) in the like manner as an appeal would lie against an assessment to corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.”.

(d) in section 448—

(i) by the substitution in subsection (1) of “sections 22A, 157, 158, 239, 241, 440, 441, 449, 644B” for “sections 157, 158, 239, 241, 440, 441, 442”, and

(ii) by the deletion of subsection (7),

and

(e) by the deletion of section 449(4) and section 450(5).

(2) (a) *Paragraphs (a) and (b)(iii) of subsection (1)* shall apply as on and from 1 January 2000.

(b) *Paragraphs (b)(i), (b)(ii) and (c) of subsection (1)* shall apply as on and from the date of the passing of this Act.

(c) *Subsection (1)(d)(i)* shall apply as respects accounting periods ending on or after 1 January 2000.

(d) *Paragraphs (d)(ii) and (e) of subsection (1)* shall apply as respects accounting periods beginning after 1 April 2000.

**84**—(1) Section 220 of the Principal Act is amended in the Table to the section by the insertion of the following after paragraph 7:

“8. The Commission for Electricity Regulation.”.

(2) This section shall be deemed to have applied as on and from 14 July 1999.

*Capital Gains Tax*

**85.**—Section 598(2) of the Principal Act is amended as respects disposals made on or after 1 December 1999 in paragraph (a) by the substitution of “£375,000” for “£250,000” in each place where it occurs.

Amendment of section 598 (disposals of business or farm on “retirement”) of Principal Act.

**86.**—Section 649A of the Principal Act is amended by the substitution for subsections (1) and (2) of the following:

Amendment of section 649A (relevant disposals: rate of charge) of Principal Act.

“(1) Notwithstanding section 28(3) and subject to subsection (2), the rate of capital gains tax in respect of a chargeable gain accruing to a person on a relevant disposal shall be—

- (a) in the case of a relevant disposal made in the period from 3 December 1997 to 30 November 1999, 40 per cent,
  - (b) in the case of a relevant disposal, other than a relevant disposal referred to in paragraph (c), made on or after 1 December 1999, 20 per cent, and
  - (c) in the case of a relevant disposal made on or after 6 April 2002, being a disposal of land which, in accordance with a development objective (as indicated in the development plan of the planning authority concerned), is for use solely or primarily for residential purposes, 60 per cent.
- (2) (a) Subsection (1) shall not apply to a relevant disposal to which this subsection applies and, accordingly, the rate of capital gains tax in respect of a chargeable gain on such a relevant disposal shall be 20 per cent.
- (b) This subsection shall apply to the following:
- (i) a relevant disposal to which section 650 refers;
  - (ii) a relevant disposal made in the period from 23 April 1998 to 30 November 1999, being a disposal of land to a housing authority (within the meaning of section 23 of the Housing (Miscellaneous Provisions) Act, 1992) which land is specified in a certificate given by the housing authority as land required for the purposes of the Housing Acts, 1966 to 1998;
  - (iii) a relevant disposal made in the period from 10 March 1999 to 30 November 1999, being a disposal of land to the National Building Agency Limited or to a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, which land is specified in a certificate given by a housing authority or the National Building Agency Limited, as appropriate, as land required for the purposes of the Housing Acts, 1966 to 1998;

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- (iv) a relevant disposal made in the period from 23 April 1998 to 30 November 1999, being a disposal of land in respect of the whole of which, at the time at which the disposal is made, permission for residential development has been granted under section 26 of the Local Government (Planning and Development) Act, 1963, and such permission has not ceased to exist, other than a disposal to which paragraph (c) applies;
  - (v) a relevant disposal made in the period from 10 March 1999 to 30 November 1999, being a disposal of land in respect of the whole of which, at the time at which the disposal is made, is, in accordance with a development objective (as indicated in the development plan of the planning authority concerned), for use solely or primarily for residential purposes other than a disposal to which paragraph (c) applies.
- (c) This paragraph shall apply to a relevant disposal being a disposal—
- (i) by a person (in this paragraph referred to as the “disponer”) to a person who is connected with the disponer, or
  - (ii) of land under a relevant contract in relation to the disposal.”.

Amendment of section 980 (deduction from consideration on disposal of certain assets) of Principal Act.

**87.—(1)** Section 980 of the Principal Act is amended—

- (a) by the substitution in subsection (3) for “£150,000” of “£300,000”,
- (b) by the substitution in subsection (4) for paragraph (b) of the following:

“(b) Where the person disposing of the asset produces to the person acquiring the asset—

- (i) a certificate issued under subsection (8) in relation to the disposal, or
- (ii) if the asset concerned is land on which a new house has been built or land on which a new house is in the course of being built, a certificate issued under subsection (8) in relation to the disposal or one of the certificates specified in subsection (8A) which, in either case, has been issued to the person disposing of the asset,

no deduction referred to in paragraph (a) shall be made.

- (c) In paragraph (b)(ii)—

‘house’ has the same meaning as it has in section 329;

‘new house’ means a house which has been developed or is being developed by



or on behalf of the person disposing of it and which has not been used at any time before its disposal.”, Pt.1 S.87

(c) by the insertion after subsection 8 of the following:

“(8A) (a) The certificates referred to in subsection (4) (b) are—

(i) a certificate of authorisation (within the meaning of section 531) issued for the purposes of that section, the period of validity of which, as provided for by regulations under subsection (6) of that section, has not expired,

(ii) a tax clearance certificate (within the meaning of section 1094) issued for the purposes of that section, the period of validity of which has not expired,

(iii) a tax clearance certificate (within the meaning of section 1095) issued for the purposes of that section, the period of validity of which has not expired, or

(iv) where a person has not been issued with such a certificate of authorisation or such a tax clearance certificate, a certificate such as is referred to in paragraph (b).

(b) Where a person has not been issued with a certificate of authorisation or a tax clearance certificate such as is referred to in subparagraph (i), (ii) or (iii) of paragraph (a), the person disposing of an asset referred to in subsection (4)(b)(ii) may apply in that behalf, for the purposes of this paragraph, to the Collector-General for the issue of a certificate and such an application shall be deemed to be an application made under section 1095 for the issuing of a tax clearance certificate thereunder and that section shall, accordingly, apply with the following and any other necessary modifications, that is to say, for the reference in subsection (2) of section 1095 to the scheme there shall be substituted a reference to subsection (4)(b) of this section.”,

and

(d) by the substitution for subparagraph (iii) of subsection (9)(a) of the following:

“(iii) the person disposing of the asset does not, at or before the time at which the acquisition is made, produce to the person acquiring the asset a certificate under subsection (8) in

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relation to the disposal or one of the certificates specified in subsection (8A), being a certificate which, in either case, has been issued to the person disposing of the asset.”.

(2) This section shall apply as respects disposals made on or after the date of the passing of this Act.

Amendment of section 1030 (separated spouses: transfers of assets) of Principal Act.

**88.**—(1) Section 1030(2) of the Principal Act is amended—

(a) by the deletion of “or” in paragraph (c),  
and

(b) by the substitution for paragraph (d) of the following:

“(d) a relief order (within the meaning of the Family Law Act, 1995) made following the dissolution of a marriage or following the legal separation of spouses, or

(e) an order or other determination to like effect, which is analogous to an order referred to in paragraph (d), of a court under the law of a territory other than the State made under or in consequence of the dissolution of a marriage or the legal separation of spouses, being a dissolution or legal separation that is entitled to be recognised as valid in the State,”.

(2) *Subsection (1)* shall apply as respects disposals made on or after 10 February 2000.

## Chapter 7

### *Income Tax and Corporation Tax: Reliefs for Renewal and Improvement of Certain Towns*

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.

**89.**—The Principal Act is hereby amended—

(a) in Part 10 by the insertion after Chapter 9 (inserted by the Finance Act, 1999) of the following:

#### “Chapter 10

#### *Designated areas of certain towns*

Interpretation and application (Chapter 10).

372AA.—(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,

[2000.]

*Finance Act, 2000.*

[No. 3.]

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; Pt.1 S.89

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

‘qualifying area’ means an area or areas specified as a qualifying area under section 372AB;

‘qualifying period’ means, subject to section 372AB, the period commencing on—

(a) in the case of section 372AC and section 372AD, such day as the Minister for Finance may by order appoint, and

(b) in the case of sections 372AE, 372AF, 372AG, 372AH and 372AI, 1 April 2000,

and ending on 31 March 2003;

‘refurbishment’, in relation to a building or structure and other than for the purposes of sections 372AG and 372AH, 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 “Town Renewal Plans”) to the Minister for the Environment and Local Government which have been drawn up by county councils (being county councils as referred to in such Act) in respect of an area or areas identified by such an authority on the basis of criteria prepared by that Minister, including physical and socio-economic renewal of such an area or areas.

Qualifying areas.

372AB.—(1) The Minister for Finance may, on the recommendation of the Minister for the Environment and Local Government (which recommendation shall take into consideration a Town Renewal Plan submitted 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 Town Renewal 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 372AD, one or both 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 where such an area or areas is or are to be a qualifying area for the purposes of section 372AH, that area or those areas may be a qualifying area for the purposes of the construction of, or, as the case may be, the refurbishment of 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 372AA 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—
  - (i) in the case of sections 372AC and 372AD, the day referred to in paragraph (a) of the definition of 'qualifying period' in section 372AA, and
  - (ii) in the case of sections 372AE, 372AF, 372AG, 372AH and 372AI, 1 April 2000,

or end after 31 March 2003.

(2) The categories of building or structure referred to in subsection (1)(b) shall be—

- (a) buildings or structures in use as offices, and
- (b) 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 buildings or structures to which paragraph (a) relates.

(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 372AA(2).

Accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures.

372AC.—(1) In this section, ‘building or structure to which this section applies’ means a building or structure or part of 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 section 372AJ, 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,
- (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 50 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 section 372AJ, 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) 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.

(5) 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, Pt.1 S.89  
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.

372AD.—(1) In this section, ‘qualifying  
premises’ means a building or structure or  
part of 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 consider-  
ation as might be expected  
to be paid in a letting of the  
building or structure nego-  
tiated 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), subsec-  
tions (3) and (4) and section  
372AJ, the provisions of the Tax  
Acts (other than section 372AC)  
relating to the making of allow-  
ances or charges in respect of  
capital expenditure incurred on  
the construction or refurb-  
ishment of an industrial build-  
ing or structure shall, notwith-  
standing 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 allow-  
ance 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) 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,
- (ii) 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.’

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and

(iii) subsections (3) to (7) of that section were deleted.

(4) 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.

(5) 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.

Rented residential accommodation: deduction for certain expenditure on construction.

372AE.—(1) In this section—

‘qualifying lease’, in relation to a house, means, subject to section 372AI(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 372AI, 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 there is in force either a certificate of compliance or, if it is not a house provided for sale, 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— Pt.1 S.89

- (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 372AI(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 372AI(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 372AI(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 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 372AI(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 372AI(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 372AI shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on conversion.

372AF.—(1) In this section—

'conversion expenditure' means, subject to subsection (2), expenditure incurred on—

- (a) the conversion into a house of a building or part 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 or part of a building—
  - (i) the site of which is wholly within a qualifying area, and

- (ii) which before the conversion Pt.1 S.89  
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 372AI 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 372AI(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 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 372AI, 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 either a certificate of compliance or, if it is not a converted house provided for sale, a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house to which the certificate relates 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 372AI(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, 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 372AI(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 372AI(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 Pt.1 S.89  
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 372AI(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 372AI(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 372AI(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 1999.

(11) Section 372AI shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on refurbishment.

372AG.—(1) In this section—

‘facade’, in relation to a house, means the exterior wall of the house which fronts on to a street;

‘qualifying lease’, in relation to a house, means, subject to section 372AI(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 372AI, 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 Pt.1 S.89  
 either a certificate of compliance  
 or, if it is not a refurbished  
 house provided for sale, a cer-  
 tificate of reasonable cost the  
 amount specified in which in  
 respect of the cost of refur-  
 bishment in relation to the  
 house to which the certificate  
 relates is not less than the rel-  
 evant expenditure actually  
 incurred on such refurbishment  
 but where the relevant expendi-  
 ture relates solely to a facade  
 this paragraph shall not apply,  
 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’ means—

- (a) in relation to a building, either or  
 both of the following—
- (i) the carrying out of any works  
 of construction, reconstruc-  
 tion, repair or renewal, and
  - (ii) the provision or improve-  
 ment of water, sewerage or  
 heating facilities,

where the carrying out of such  
 works or the provision of such  
 facilities is certified by the Mini-  
 ster for the Environment and  
 Local Government, in any cer-  
 tificate of reasonable cost or cer-  
 tificate of compliance, as the  
 case may be, granted by that  
 Minister in relation to any house  
 contained in the building, to  
 have been necessary for the pur-  
 poses 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,

- (b) in relation to a facade, any work of construction, reconstruction, repair or renewal carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration of a facade;

‘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 or part of 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 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;

‘street’ includes part of a street and the whole or part of any road, square, quay or lane.

(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 372AI(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 372AI(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 372AI(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—

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- (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 372AI(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 372AI(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 372AI(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.

(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 1999.

(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 372AI shall apply for the purposes of supplementing this section.

Residential accommodation: allowance to owner-occupiers in respect of certain expenditure on construction or refurbishment.

372AH.—(1) In this section—

‘facade’ has the same meaning as in section 372AG;

‘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 372AI, a house—

- (a) the site of which is wholly within a Pt.1 S.89 qualifying area,
- (b) which is used solely as a dwelling,
- (c) in respect of which there is in force either a certificate of compliance or, if it is not a house provided for sale, 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, but where the qualifying expenditure relates solely to a facade this paragraph shall not apply, and
- (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 372AG;

'street' has the same meaning as in section 372AG.

- (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) Notwithstanding paragraph (a), where the individual, or, being a husband or wife, the individual's spouse, is assessed to tax in accordance with section 1017, the individual shall, except where section 1023 applies, be entitled to have the deduction, to which he or she is entitled under paragraph (a), made from his or her total income and the total income of his or her spouse, if any.

(c) 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 372AI(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 the proportions in which they actually bore the expenditure, and the expenditure shall be apportioned accordingly.

(4) (a) Section 372AE(4), in relation to the apportionment of qualifying expenditure incurred on the construction of a qualifying premises and section 372AE(7), in relation to the amount of expenditure to be treated as incurred in the qualifying period on the construction of a house which is sold before it is used, shall, with any necessary modifications, apply in relation to qualifying expenditure incurred on the construction of a qualifying premises within the meaning of this section, as they apply in relation to expenditure incurred under section 372AE.

(b) Section 372AG(4), in relation to the apportionment of relevant expenditure incurred on the refurbishment of a qualifying premises, and section 372AG(7), in relation to the amount of relevant expenditure to be treated as incurred in the qualifying period on the refurbishment of a house which is sold before it is used subsequent to the incurring of that expenditure, shall, with any necessary modifications,

apply in relation to qualifying expenditure incurred on the refurbishment of a qualifying premises within the meaning of this section, as they apply in relation to relevant expenditure incurred under section 372AG. Pt.1 S.89

(5) Section 372AI shall apply for the purposes of supplementing this section.

Provisions supplementary to sections 372AE to 372AH.

372AI.—(1) In sections 372AE to 372AH—

‘certificate of compliance’ means a certificate granted by the Minister for the Environment and Local Government (on foot of an application received by that Minister within a period of one year from the day next after the end of the qualifying period) for the purposes of section 372AE, 372AF, 372AG or 372AH, as the case may be, stating that the house, to which the certificate relates, at the time of granting the certificate and on the basis of the information available to that Minister at that time—

(a) complies—

- (i) in the case of construction, 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,
- (ii) in the case of conversion or refurbishment, 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 improvement of houses and the provision of water, sewerage and other services in houses,

(b) stating that the total floor area of the house is within the floor area

limits as specified in the definition of qualifying premises for the purposes of section 372AE, 372AF, 372AG or 372AH, and

- (c) in the case of refurbishment, that the work was necessary for the purposes of ensuring the suitability as a dwelling of any house in the building;

‘certificate of reasonable cost’ means a certificate granted by the Minister for the Environment and Local Government (on foot of an application received by that Minister within a period of one year from the day next after the end of the qualifying period) for the purposes of section 372AE, 372AF, 372AG or 372AH, 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 372AE, 372AF or 372AG 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 372AE, 372AF or 372AG 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 372AE(2), 372AF(4) or 372AG(2), as the case may be, and Pt.1 S.89
- (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 372AE or, in so far as it applies to expenditure other than expenditure on refurbishment, section 372AH 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 372AF or 372AG or, in so far as it applies to expenditure on refurbishment, section 372AH 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 but this paragraph shall not apply where the expenditure incurred on a qualifying premises for the purposes of section 372AG or section 372AH relates solely to a facade within the meaning of those sections.

(c) A house shall not be a qualifying premises for the purposes of section 372AE, 372AF, 372AG or 372AH 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 and without prejudice to the generality of the foregoing, such guidelines may 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 372AE, 372AF, 372AG or 372AH 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 372AE to 372AH, 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 372AE(2), 372AF(4), 372AG(2) or 372AH(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 372AE and 372AF 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 372AG 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 372AH 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 372AE to 372AG, 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 372AE(2), 372AF(4) or 372AG(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 372AE(5), 372AF(7) or

372AG(5), as the case may be, were a balancing charge. Pt.1 S.89

(11) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 372AE, 372AF, 372AG or 372AH (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.

Non-application of relief in certain cases and provision against double relief.

372AJ.—(1) Notwithstanding any other provision of this Chapter, sections 372AC and 372AD shall not apply—

(a) in respect of expenditure incurred on the construction or refurbishment of a building or structure or a qualifying premises—

(i) where a property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and

(ii) either the person referred to in subparagraph (i) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the building, structure or premises concerned,

(b) in respect of expenditure incurred on the construction or refurbishment of a building or structure or a qualifying premises where such building or structure or premises is in use for the purposes of a trade, or any activity treated as a trade, carried on by the person who is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure and such trade or activity is carried on wholly or mainly—

(i) in the sector of agriculture, including the production, processing and marketing of agricultural products,

(ii) in the coal industry, fishing industry or motor vehicle industry, or

(iii) in the transport, steel, ship-building, synthetic fibres or financial services sectors,

or

(c) in relation to any building or structure or qualifying premises which is provided for the purposes of a project, the regional aid for which is limited under the 'Multisectoral framework on regional aid for large investment projects'<sup>1</sup> prepared by the Commission of the European Communities.

(2) For the purposes of sections 372AC, 372AD, 372AF and 372AG, where the site of any part of a building or structure is situated outside the boundary of a qualifying area and where expenditure incurred or treated as having been incurred in the qualifying period is attributable to the building or structure in general, such an amount of that expenditure shall be deemed to be attributable to the part which is situated outside the boundary of the qualifying area as bears to the whole of that expenditure the same proportion as the floor area of the part situated outside the boundary of the qualifying area bears to the total floor area of the building or structure.

(3) Where relief is given by virtue of any provision of this Chapter in relation to capital expenditure or other expenditure incurred on any building, structure or premises, relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.”,

(b) in section 458 by the insertion in Part 1 of the Table to that section after “Section 372Y” (inserted by the Finance Act, 1999) of “Section 372AH”, and

(c) by the substitution in section 1024(2)(a)(i) of “372RA, 372Y and 372AH” for “372RA and 372Y”.

## PART 2

### Customs and Excise

#### *Miscellaneous*

Tobacco products.

**90.**—(1) In this section and in *Schedule 3*—

“the Act of 1977” means the Finance (Excise Duty on Tobacco Products) Act, 1977;

<sup>1</sup>O.J. No. C107, 7.4.1998, p.7

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“cigarettes”, “cigars”, “fine-cut tobacco for the rolling of cigarettes” Pt.2 S.90 and “smoking tobacco” have the same meanings as they have in the Act of 1977 (as amended by section 86 of the Finance Act, 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 Schedule 4 to the Finance Act, 1999, be charged, levied and paid, as on and from 2 December 1999, at the several rates specified in *Schedule 3*.

**91.**—(1) In this section—

Hydrocarbons.

“kerosene” means hydrocarbon (heavy) oil of which more than 50 per cent by volume distils at a temperature not exceeding 240° Celsius;

“the Order of 1975” means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975);

“the Order of 1987” means the Imposition of Duties (No. 285) (Excise Duties) Order, 1987 (S.I. No. 19 of 1987);

“tax warehouse” has the meaning assigned to it by section 103 of the Finance Act, 1992.

(2) The amount of any rebate allowed under paragraph 12(3) of the Order of 1975 shall, in respect of any kerosene, which is imported or delivered from a tax warehouse on or after 2 December, 1999, be the amount of excise duty chargeable less an amount calculated at the rate of £2.50 per hectolitre in lieu of the rate specified in paragraph 5(8) of the Order of 1987.

**92.**—The Finance Act, 1999, is amended by the substitution of the following Schedule for Schedule 2:

Rates of mineral oil tax.

“SCHEDULE 2

Rates of Mineral Oil Tax

Description of Product	Rate of Duty
	£
<i>Light Oil:</i>	
Leaded petrol	361.36 per 1,000 litres
Unleaded petrol	294.44 per 1,000 litres
Super unleaded petrol	357.22 per 1,000 litres
Aviation gasoline	180.68 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	256.14 per 1,000 litres
Kerosene used other than as a propellant	25.00 per 1,000 litres
Fuel oil	10.60 per 1,000 litres
Other heavy oil	37.30 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	41.75 per 1,000 litres
Other liquefied petroleum gas	14.30 per 1,000 litres
<i>Substitute Fuel:</i>	
Used as a propellant	256.14 per 1,000 litres
Other substitute fuel	37.30 per 1,000 litres

”.

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Amendment of  
section 94  
(interpretation,  
Chapter 1) of  
Finance Act, 1999.

**93.**—Section 94 of the Finance Act, 1999, is amended in subsection (1) by—

(a) the insertion of the following definitions:

“‘dumper’ means a vehicle not exceeding 3 metres cubed in capacity when level loaded, and that is designed and constructed for use on sites of construction works (including road construction and house and other building works) for the purpose of conveying concrete, rubble, earth or other like material, where the person taking out the licence required under section 1 of the Finance (Excise Duties) (Vehicles) Act, 1952, shows to the satisfaction of the licensing authority that the vehicle is used mainly on such sites, and on public roads—

(a) for the purpose of proceeding to and from the site where it is to be used (and when so proceeding neither carries nor hauls any load other than such as is necessary for its propulsion or equipment), or

(b) for the purpose of conveying concrete, rubble, earth or like material for a distance of not more than one kilometre to and from any such site,

only;

‘kerosene’ means heavy oil of which more than 50 per cent by volume distils at a temperature not exceeding 240° Celsius;

‘ships’ stores’ means stores on board a ship or aircraft for use on a voyage from a place in the State to a place outside the State;”,

(b) the substitution of—

(i) the following definition for the definition of “‘marker’”:

“‘marker’ means any substance added, or to be added, to mineral oils primarily for the purpose of the identification of such oils for excise duty purposes;”, and

(ii) the following definition for the definition of “‘propellant’”:

“‘propellant’ means—

(a) in relation to mineral oil, mineral oil used for combustion in the engine of a motor vehicle, or

(b) in relation to heavy oil with a sulphur content greater than 50 milligrammes per kilogramme, such heavy oil used for combustion in the engine of a train;”,

and

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- (c) the insertion in the definition of “motor vehicle” of “a dumper or” after “a road roller or”. Pt.2 S.93

**94.**—(1) Paragraph 12 of the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975), is amended by the substitution of the following subparagraph for subparagraph (11):

Amendment of paragraph 12 of Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975).

“(11) Where a person who—

- (a) carries on a passenger road service within the meaning of section 2 of the Road Transport Act, 1932, pursuant to a passenger licence granted under section 11 of that Act,
- (b) lawfully carries on, other than pursuant to such a licence, such a passenger road service,
- (c) provides a school transport service pursuant to an agreement with the Minister for Education and Science, or
- (d) carries on a passenger road service or provides a school transport service pursuant to an agreement with a person to whom clause (a), (b) or (c), as may be appropriate, applies,

shows to the satisfaction of the Revenue Commissioners that hydrocarbon oil on which the duty of excise imposed by this paragraph has been paid has been used by such person for combustion in the engine of a mechanically propelled vehicle used in the provision of such service, the Revenue Commissioners shall, subject to compliance with such conditions as they think fit, repay to such person the amount of duty less an amount calculated at the rate of £17.90 per 1,000 litres on hydrocarbon oil so used, on receipt of a claim in respect thereof by such person in such form as they may direct, provided that no repayment may be made in respect of a claim made after the expiration of 4 months from the date on which the hydrocarbon oil was so used without the consent of the Revenue Commissioners.”.

(2) Subparagraph (11) of the said paragraph 12 (inserted by this section) shall, on and from such day as may be specified by order of the Minister for Finance, apply only to hydrocarbon oil with a maximum sulphur content of 50 milligrammes per kilogramme.

(3) A claim under the said subparagraph (11) may be made—

- (a) subject to *subsection (2)*, in respect of hydrocarbon oil used after the coming into operation of this section, or
- (b) in respect of hydrocarbon oil used at any time during the period commencing on 1 January 1997, or such earlier date as may be prescribed by order of the Revenue Commissioners, and ending on the coming into operation of this section, provided that such claim is made on or before such other date as may be so prescribed.

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Amendment of  
section 99  
(passenger road  
services) of Finance  
Act, 1999.

**95.**—(1) Section 99 of the Finance Act, 1999, is amended by the substitution of the following subsection for subsection (1):

“(1) Where a person who—

- (a) carries on a passenger road service within the meaning of section 2 of the Road Transport Act, 1932, pursuant to a passenger licence granted under section 11 of that Act,
- (b) lawfully carries on, other than pursuant to such a licence, such a passenger road service,
- (c) provides a school transport service pursuant to an agreement with the Minister for Education and Science, or
- (d) carries on a passenger road service or provides a school transport service pursuant to an agreement with a person to whom paragraph (a), (b) or (c), as may be appropriate, applies,

shows to the satisfaction of the Commissioners that heavy oil on which mineral oil tax has been paid has been used by such person for combustion in the engine of a mechanically propelled vehicle used in the provision of such service, the Commissioners shall, subject to compliance with such conditions as they may think fit, repay to such person the amount of mineral oil tax paid less an amount calculated at the rate of £17.90 per 1,000 litres on such mineral oil so used.”.

(2) Subsection (1) of the said section 99 (inserted by this section) shall, on and from such day as may be specified by order of the Minister for Finance, apply only to heavy oil with a maximum sulphur content of 50 milligrammes per kilogramme.

Hydrocarbon oil  
used in trains.

**96.**—(1) In this section “the Order of 1975” means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975).

(2) Notwithstanding the provisions of paragraph 12(3) of the Order of 1975, the rebate allowed under that paragraph shall, in respect of hydrocarbon oil used in the engine of a train, apply only to such oil with a maximum sulphur content of 50 milligrammes per kilogramme.

(3) It shall be an offence for a person to use for combustion in the engine of a train, or to keep in the fuel tank of a train, hydrocarbon oil that has a sulphur content greater than 50 milligrammes per kilogramme—

- (a) where any duty of excise payable in respect thereof under paragraph 12(1) of that Order has not been paid, or
- (b) on which a rebate under paragraph 12(3) of that Order has been allowed.

(4) Without prejudice to any other penalty to which a person may be liable, where such person is guilty of an offence under *subsection (3)*, he or she shall be liable on summary conviction to a fine of £1,000.



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(5) References in subsection (13) and subsection (13A) (inserted by section 78 of the Finance Act, 1974) of section 21 of the Finance Act, 1935, to a motor vehicle shall be construed as including references to a train. Pt.2 S.96

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

**97.**—Section 103 of the Finance Act, 1999, is amended by the substitution of the following subsection for subsection (1):

Amendment of section 103 (presumptions in certain proceedings) of Finance Act, 1999.

“(1) Where, in proceedings for an offence under section 102 consisting of the use of mineral oil as a propellant, or the keeping of mineral oil in a fuel tank in contravention of that section, it is proved that a fuel tank contained mineral oil, it shall be presumed (unless the contrary is proved) that such mineral oil was used as a propellant or kept in the fuel tank concerned in contravention of that section, as may be appropriate, and to have been so used or kept by—

(a) the owner of the vehicle concerned or, if a person other than the owner was, at the time of the alleged commission of the offence, entitled to the possession of the vehicle, the person so entitled, and

(b) any other person who at the time of the alleged commission of the offence was in charge of the vehicle.”.

**98.**—Section 104 of the Finance Act, 1995, is amended—

Amendment of section 104 (appeals to Revenue Commissioners) of Finance Act, 1995.

(a) by the insertion of the following subsection after subsection (2):

“(2A) Any person who is the subject of any of the following acts of the Commissioners:

(a) a refusal to approve a person as an authorised warehousekeeper or a premises as a tax warehouse under section 105 of the Finance Act, 1992, or a revocation, under that section, of any such approval that has been granted,

(b) a refusal to approve a person as a tax representative under section 108 of the Finance Act, 1992, or a revocation, under that section, of any such approval that has been granted,

(c) a refusal to grant registration of a trader under section 110(4) of the Finance Act, 1992, or a revocation, under that section, of any such registration that has been granted,

(d) a decision in relation to the registration of a vehicle, or the amendment of an entry in or the deletion of an entry from, the register referred to in section 131 of the

Finance Act, 1992, by the Commissioners, or on their behalf, under that section 131,

(e) a determination of an open market selling price of a vehicle under section 133(2) of the Finance Act, 1992, or

(f) a granting, refusal or revocation of an authorisation under section 136 of the Finance Act, 1992, or a decision in relation to the arrangements for payment of vehicle registration tax under that section 136,

may appeal against such an act to the Commissioners.”;

(b) in subsection (3), by the substitution of “(1), (2) or (2A)” for “(1) or (2)”; and

(c) in subsection (4), by the substitution of the following paragraphs for paragraphs (c) and (d):

“(c) the repayment of a duty of excise,

(d) the notification by the Commissioners of a refusal of a repayment by them of a duty of excise, or

(e) the notification by the Commissioners of the doing by them of an act referred to in subsection (2A),”.

Delegation of certain powers of the Revenue Commissioners.

**99.**—Chapter IV of Part II of the Finance Act, 1992, is amended—

(a) by the insertion of the following section after section 130A:

“130B.—(1) For the purposes of this Chapter, and subject to the direction and control of the Commissioners, any power, function or duty conferred or imposed on them may, subject to subsection (2), be exercised or performed on their behalf by an officer of the Commissioners.

(2) Any power, function or duty conferred or imposed on the Commissioners by—

(a) paragraph (c) of subsection (1) of section 131,

(b) paragraphs (c) and (d) of subsection (2) of section 133, or

(c) subsections (2) and (3) of section 136,

may be exercised or performed on their behalf, and subject to their direction and control, by an officer of the Commissioners authorised by them in writing for the purposes of that section.”,

and

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(b) in section 131A by the deletion of subsection (8).

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**100.**—Section 131 of the Finance Act, 1992, is amended by the substitution of the following subsection for subsection (5):

Amendment of section 131 (registration of vehicles by Revenue Commissioners) of Finance Act, 1992.

“(5) The Commissioners shall assign in the prescribed manner a unique identification mark to each vehicle entered in the register and shall cause to be issued to the owner of the vehicle a certificate of registration in the prescribed form in respect of each such vehicle.”.

**101.**—Section 133 of the Finance Act, 1992, is amended in subsection (2)—

Amendment of section 133 (chargeable value) of Finance Act, 1992.

(a) by the substitution of the following paragraph for paragraph (c):

“(c) Notwithstanding the provisions of paragraph (b), where a price stands declared for a vehicle in accordance with this subsection which, in the opinion of the Commissioners, is higher or lower than the open market selling price at which a vehicle of that model and specification or a vehicle of a similar type and character is being offered for sale in the State while such price stands declared, the open market selling price may be determined from time to time by the Commissioners for the purposes of this section.”.

and

(b) in paragraph (d) (inserted by the Finance (No. 2) Act, 1992), by the substitution of “may be determined from time to time” for “may be determined”.

**102.**—The duty of excise on the issue of passenger tickets imposed by subsection (2) of section 65 of the Finance Act, 1982, shall not be charged or levied on or after 1 January 2000.

Excise duty on foreign travel.

**103.**—Section 78 of the Finance Act, 1980, is amended—

Excise duty on public dancing licence, occasional licence, special exemption order and authorisation to a club.

(a) by the substitution of the following subsection for subsection (6):

“(6) The duty imposed by this section on a licence shall be paid to the Courts Service for and on behalf of the Revenue Commissioners, or to such other body as may be appointed by the Commissioners, on the lodging of the notice in writing of the application for the licence with the appropriate District Court Clerk.”.

and

(b) by the substitution of the following subsection for subsection (7):

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“(7) Notwithstanding anything to the contrary contained in any Act, a licence which is liable to a duty imposed by this section shall not be granted unless the duty has been paid in accordance with subsection (6).”.

Excise duty on registration of clubs.

**104.**—Section 48 of the Finance Act, 1989, is amended—

- (a) by the deletion of subsection (1),  
 (b) by the substitution of the following subsection for subsection (3):

“(3) The duty imposed by this section on a certificate of registration shall be paid to the Courts Service for and on behalf of the Revenue Commissioners, or to such other body as may be appointed by the Commissioners, on the lodging of the application in writing for registration or renewal of registration under section 2 of the Registration of Clubs (Ireland) Act, 1904, with the appropriate District Court Clerk.”,

and

- (c) by the substitution of the following subsection for subsection (4):

“(4) Notwithstanding anything to the contrary contained in any Act, a certificate of registration of a club which is liable to the duty imposed by this section shall not be granted unless the duty has been paid in accordance with subsection (3).”.

Imposition of duty on liquor licences for National Cultural Institutions.

**105.**—(1) There shall be charged, levied and paid on every licence granted pursuant to section 62 of the National Cultural Institutions Act, 1997, and on the due renewal of every such licence a duty of excise of £200.

(2) A licence granted by the Revenue Commissioners pursuant to section 62 of the National Cultural Institutions Act, 1997, shall expire at midnight on the next following 30 September after the commencement of the period to which the licence relates.

Tax clearance in relation to excise licences.

**106.**—Section 62 of the National Cultural Institutions Act, 1997, is amended by the insertion of the following after subsection (2):

“(2A) Notwithstanding anything to the contrary in any other enactment, a licence shall not be granted or renewed by the Revenue Commissioners under this section in respect of any period commencing on or after 1 October 2000 unless a tax clearance certificate in relation to the licence or its renewal has been issued in accordance with section 1094 of the Taxes Consolidation Act, 1997.”.

### PART 3

#### Value-Added Tax

Interpretation (*Part 3*).

**107.**—In this Part—

“Principal Act” means the Value-Added Tax Act, 1972;

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“Act of 1978” means the Value-Added Tax (Amendment) Act, 1978; Pt.3 S.107

“Act of 1992” means the Finance Act, 1992;

“Act of 1999” means the Finance Act, 1999.

**108.**—Section 1 of the Principal Act is amended by the substitution for the definition of “telecommunications services” of the following:

Amendment of section 1 (interpretation) of Principal Act.

“‘telecommunications services’ means services relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems and includes—

(a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception, and

(b) the provision of access to global information networks;”.

**109.**—Section 6A (inserted by the Act of 1999) of the Principal Act is amended—

Amendment of section 6A (special scheme for investment gold) of Principal Act.

(a) by the substitution in paragraph (a) of subsection (2) of “investment gold, including investment gold which is represented by securities” for “investment gold which is represented by securities”,

and

(b) by the insertion of the following subsection after subsection (8):

“(9) Every trader in investment gold shall establish the identity of any person to whom such trader supplies investment gold when the total consideration which such trader is entitled to receive in respect of such supply, or a series of such supplies which are or appear to be linked, amounts to at least 15,000 euros, and such trader shall retain a copy of all documents used to identify the person to whom the investment gold is supplied as if they were records to be kept in accordance with section 16(1A) of this Act.”.

**110.**—Section 8 of the Principal Act is amended—

Amendment of section 8 (taxable persons) of Principal Act.

(a) in subsection (5):

(i) by the substitution of “goods or services, other than services of the kind referred to in paragraph (xiii) of the Sixth Schedule,” for “such goods or services”, and

(ii) by the substitution of “goods or services, other than services of the kind referred to in paragraph (xiii) of the Sixth Schedule.” for “goods or services.”,

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

“(5A) (a) Notwithstanding subsection (5), provision may be made by regulation for the cancellation, by the request of a person who supplies services of the kind referred to in paragraph (xiii) of the Sixth Schedule, of an election made by such person under this section and for the payment by such person to the Revenue Commissioners, in addition to any amount payable in accordance with subsection (5), of such an amount (hereafter referred to in this subsection as the ‘cancellation amount’), as shall be determined in accordance with paragraph (b), as a condition of cancellation and the cancellation amount shall be payable as if it were tax due in accordance with section 19 for the taxable period in which the cancellation comes into effect.

(b) (i) Where the person referred to in paragraph (a)—

(I) was entitled to deduct tax in accordance with section 12 in respect of the acquisition, purchase or development of immovable goods used by that person in the course of a supply of services of a kind referred to in paragraph (xiii) of the Sixth Schedule, or

(II) would be entitled to deduct tax in accordance with section 12 in respect of the acquisition, as a result of a transfer to that person, of immovable goods used by that person in the course of a supply of services of a kind referred to in paragraph (xiii) of the Sixth Schedule, if that tax had been chargeable but for the application of the provisions of section 3(5)(b)(iii) on that transfer,

then, in respect of each such acquisition, purchase or development, an amount (hereafter referred to in this subsection as the ‘adjustment amount’) shall be calculated in accordance with subparagraph (ii) and the cancellation amount shall be the sum of the adjustment amounts so calculated or, if there is only one such adjustment amount, that amount: but if there is no adjustment amount, the cancellation amount is nil.

(ii) The adjustment amount shall be determined by the formula—

$$\frac{A \times (10 - B)}{10}$$

where—

A is—

(I) the amount of tax deductible in respect of the said acquisition, purchase or development of the said immovable goods, or

(II) the amount of tax that would be deductible in respect of the said acquisition of the said immovable goods if the provisions of section 3(5)(b)(iii) had not applied to the transfer of those immovable goods,

and

B is the number of full years for which the said goods were used by the person in the course of the supply of services of a kind referred to in paragraph (xiii) of the Sixth Schedule: but if the said number of full years is in excess of 10, such adjustment amount shall be deemed to be nil.

(c) For the purposes of paragraph (b) a full year shall be any continuous period of 12 months.”,

and

(c) in subsection (6) (inserted by the Act of 1992) by the insertion after “subsection (5)” of “or subsection (5A)”.

**111.**—Section 11 of the Principal Act is amended in subsection (1) (inserted by the Act of 1992) by the substitution in paragraph (f) of “4.2 per cent” for “4 per cent” (inserted by the Act of 1999). Amendment of section 11 (rates of tax) of Principal Act.

**112.**—Section 12 of the Principal Act is amended—

(a) by the insertion in paragraph (a) of subsection (1) of the following subparagraph after subparagraph (via) (inserted by the Act of 1999): Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

“(vi**b**) the residual tax referred to in section 12C, being residual tax contained in the price charged to the taxable person for the purchase of agricultural machinery (within the meaning of section 12C), by means of documents issued to that person during the period in accordance with section 12C(1B),”

and

(b) by the substitution of the following for subsection (4):

“(4) (a) In this subsection—

‘deductible supplies or activities’ means the supply of taxable goods or taxable services, or the carrying out of qualifying activities as defined in subsection (1)(b);

‘dual-use inputs’ means goods or services (other than goods or services on the purchase or acquisition of which, by virtue of subsection (3), a deduction of tax shall not be made) which are not used solely for the purposes of either deductible supplies or activities or non-deductible supplies or activities;

‘non-deductible supplies or activities’ means the supply of goods or services or the carrying out of activities other than deductible supplies or activities;

‘total supplies and activities’ means deductible supplies or activities and non-deductible supplies or activities.

- (b) Where a taxable person engages in both deductible supplies or activities and non-deductible supplies or activities then, in relation to that person’s acquisition of dual-use inputs for the purpose of that person’s business for a period, that person shall be entitled to deduct in accordance with subsection (1) only such proportion of tax, borne or payable on that acquisition, which is calculated in accordance with the provisions of this subsection and regulations, as being attributable to that person’s deductible supplies or activities and such proportion of tax is, for the purposes of this subsection, referred to as the ‘proportion of tax deductible’.
- (c) For the purposes of this subsection and regulations, the proportion of tax deductible by a taxable person for a period shall be calculated on any basis which results in a proportion of tax deductible which correctly reflects the extent to which the dual-use inputs are used for the purposes of that person’s deductible supplies or activities and has due regard to the range of that person’s total supplies and activities.
- (d) The proportion of tax deductible may be calculated on the basis of the ratio which the amount of a person’s tax-exclusive turnover from deductible supplies or activities for a period bears to the amount of that person’s tax-exclusive turnover from total supplies and activities for that period but only if that basis results in a proportion of tax deductible which is in accordance with paragraph (c).



- (e) Where it is necessary to do so to ensure that the proportion of tax deductible by a taxable person is in accordance with paragraph (c), a taxable person shall—
- (i) calculate a separate proportion of tax deductible for any part of that person's business, or
- (ii) exclude, from the calculation of the proportion of tax deductible, amounts of turnover from incidental transactions by that person of the type specified in paragraph (i) of the First Schedule or amounts of turnover from incidental transactions by that person in immovable goods.
- (f) The proportion of tax deductible as calculated by a taxable person for a taxable period may be adjusted in accordance with regulations, if, for the accounting period in which the taxable period ends, that proportion does not correctly reflect the extent to which the dual-use inputs are used for the purposes of that person's deductible supplies or activities or does not have due regard to the range of that person's total supplies and activities."

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**113.**—Section 12A (inserted by the Act of 1978) of the Principal Act is amended in subsection (1) by the substitution of "4.2 per cent" for "4 per cent" (inserted by the Act of 1999).

Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.

**114.**—Section 12C (inserted by the Act of 1999) of the Principal Act is amended by the insertion of the following subsections after subsection (1):

Amendment of section 12C (special scheme for agricultural machinery) of Principal Act.

"(1A) A taxable dealer who purchases agricultural machinery from a person where the disposal of that agricultural machinery by such person to such taxable dealer was deemed in accordance with section 3(5)(c) not to be a supply of goods shall, subject to the provisions of this section and in accordance with subparagraph (vi*b*) of paragraph (a) of subsection (1) of section 12, be entitled to deduct the residual tax, determined by the formula in subsection (3), contained in the price payable by such taxable dealer in respect of that purchase.

(1B) A person who disposes of agricultural machinery to a taxable dealer where the disposal of that agricultural machinery by such person to such taxable dealer was deemed in accordance with section 3(5)(c) not to be a supply of goods shall issue a document to the taxable dealer to whom the disposal is made and shall indicate on the document—

- (a) that person's name and address,
- (b) the name and address of the taxable dealer,
- (c) the date of issue of the document,

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- (d) a description of the agricultural machinery, including details of the make, model and, where appropriate, the year of manufacture, the engine number and registration number of that machinery,
- (e) the consideration for the disposal of the agricultural machinery,
- (f) confirmation that the disposal is deemed in accordance with section 3(5)(c) not to be a supply of goods, and
- (g) such other particulars as may be specified by regulations, if any.”.

Amendment of section 17 (invoices) of Principal Act.

**115.**—Section 17 of the Principal Act is amended by the insertion in subsection (1AB) (inserted by the Finance Act, 1996) after “subsection (1AA)” of “or section 12C (1B)”.

Amendment of section 20 (refund of tax) of Principal Act.

**116.**—Section 20 of the Principal Act is amended—

- (a) by the insertion in subsection (3) of the following paragraph after paragraph (b):

“(b) An order under this subsection may, if so expressed, have retrospective effect.”,

- (b) by the substitution in subsection (5) of the following paragraph for paragraph (a)—

“(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—

- (i) accounted, in a return furnished to the Revenue Commissioners, for an amount of tax for which that person was not properly accountable, or
- (ii) did not, because that person’s supplies of goods and services were treated as exempted activities, furnish a return to the Revenue Commissioners and, therefore, did not receive a refund of an amount of tax in accordance with subsection (1), or
- (iii) did not deduct an amount of tax in respect of qualifying activities, as defined in section 12(1)(b), which that person was entitled to deduct,

then, in respect of the total amount of tax referred to in subparagraphs (i), (ii) or (iii) (in this subsection referred to 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

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result in the unjust enrichment of the claimant.”, Pt.3 S.116

(c) by the substitution in subsection (5)(d)(i) of “a loss of demand for those goods or services, for the period for which the claim is being made”, for “a loss of turnover”, and

(d) by the substitution in subsection (5)(d)(iii) of “loss of demand” for “loss of turnover”.

**117.**—Section 22 of the Principal Act is amended in subsections (1) and (2) by the substitution of “period” for “taxable period” wherever it occurs.

Amendment of section 22 (estimation of tax due for a taxable period) of Principal Act.

**118.**—Section 23 (inserted by the Act of 1978) of the Principal Act is amended in subsection (1):

Amendment of section 23 (assessment of tax due for any period) of Principal Act.

(a) by the deletion of “consisting of one taxable period or of two or more consecutive taxable periods”, and

(b) by the deletion of “the taxable period or periods comprised in”.

**119.**—Section 25 of the Principal Act is amended in clause (i) of subsection (2) by the substitution of “periods” for “taxable periods”.

Amendment of section 25 (appeals) of Principal Act.

**120.**—Section 27 of the Principal Act is amended by the deletion of subsection (8).

Amendment of section 27 (fraudulent returns, etc.) of Principal Act.

**121.**—Section 32 of the Principal Act is amended in paragraph (ag) (inserted by the Act of 1992) of subsection (1) by the deletion of “by tax-free shops”.

Amendment of section 32 (regulations) of Principal Act.

**122.**—The First Schedule to the Principal Act is amended in paragraph (xv) (inserted by the Finance Act, 1980) by the insertion after “Finance Act, 1994,” of “of bets of the kind referred to in section 75 of the Finance Act, 1996,”.

Amendment of First Schedule to Principal Act.

**123.**—The Second Schedule to the Principal Act is amended—

Amendment of Second Schedule to Principal Act.

(a) by the substitution of the following paragraph for paragraph (ia) (inserted by the Finance Act, 1994):

“(ia) subject to such conditions and in such amounts as may be specified in regulations,—

(a) the supply of goods, in a tax-free shop approved by the Revenue Commissioners, to travellers departing the State for a place outside the Community, or

(b) the supply, other than by means of a vending machine, of food, drink and tobacco products on board a vessel or aircraft to passengers departing the State for another Member State, for consumption on board that vessel or aircraft;”.

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- (b) by the insertion in paragraph (vb) (inserted by the Finance Act, 1993) after “paragraph (v)” of “but not including goods for supply on board such vessels or aircraft to passengers for the purpose of those goods being carried off such vessels or aircraft”, and
- (c) by the insertion in subparagraph (a) of paragraph (xva) (inserted by the Finance Act, 1998) after “catalogues” of “, directories”.

Revocation (Part 3).

**124.**—The European Communities (Value-Added Tax) Regulations, 1999 (S.I. No. 196 of 1999), shall be deemed to have been revoked with effect from 1 July 1999.

## PART 4

## Stamp Duties

Interpretation (Part 4).

**125.**—In this Part “Principal Act” means the Stamp Duties Consolidation Act, 1999.

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

**126.**—(1) Section 81 of the Principal Act is amended:

- (a) by the substitution of the following subsection for subsection (2):

“(2) No stamp duty shall be chargeable under or by reference to the heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ in Schedule 1 on any instrument to which this section applies.”,

- (b) by the substitution of the following subsection for subsection (6):

“(6) Subsection (2) shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.”,

- (c) by the substitution of the following subsection for subsection (7):

“(7) (a) If and to the extent that any person to whom land was conveyed or transferred by any instrument in respect of which relief from duty under this section was allowed—

- (i) disposes of such land, or part of such land, within a period of 5 years from the date of execution of the instrument, and

- (ii) does not replace such land with other land within a period of one year from the date of such disposal,

then such person or, where there is more than one such person, each such person, jointly and severally, shall become liable to pay to the Commissioners a penalty equal to the amount of the duty which would have been charged

in the first instance if the land disposed of had been conveyed or transferred by an instrument to which this section had not applied, together with interest on that amount as may so become payable charged at a rate of 1 per cent per month or part of a month from the date of disposal of the land to the date the penalty is remitted. Pt.4 S.126

(b) Where any claim for relief from duty under this section has been allowed and it is subsequently found that a declaration made, or a certificate contained in the instrument, in accordance with subsection (3)—

(i) was untrue in any material particular which would have resulted in the relief afforded by this section not being granted, and

(ii) was made, or was included, knowing same to be untrue or in reckless disregard as to whether it was true or not,

then any person who made such a declaration, or where a false certificate has been included, the person or persons to whom the land is conveyed or transferred by the instrument, jointly and severally, shall be liable to pay to the Commissioners as a penalty an amount equal to 125 per cent of the duty which would have been charged on the instrument in the first instance had all the facts been truthfully declared and certified, together with interest on that amount as may so become payable charged at a rate of 1 per cent per month or part of a month from the date when the instrument was executed to the date the penalty is remitted.”,

and

(d) in subsection (9) by the substitution of “31 December 2002” for “31 December 1999”.

(2) *Subsection (1)* shall apply and have effect in relation to instruments executed on or after 1 January 2000.

**127.**—(1) Section 86 of the Principal Act is amended in paragraph (b)—

(a) by the substitution of “ICC Bank public limited company” for “Industrial Credit Corporation p.l.c.”, and

(b) by the deletion of “Bord Telecom Éireann.”.

Amendment of section 86 (exemption from stamp duty in respect of certain loan stock) of Principal Act.

(2) (a) *Subsection (1)(a)* shall have effect in relation to transfers of loan stock executed on or after 10 February 2000.

(b) *Subsection (1)(b)* shall have effect in relation to transfers of loan stock executed where the loan stock was issued on or after 10 February 2000.

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Amendment of section 87 (stock borrowing) of Principal Act.

**128.**—(1) Section 87 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the deletion of the definition of “stock” and the definition of “stock borrower”, and

(ii) by the substitution of the following definition for the definition of “stock borrowing”:

“ ‘stock borrowing’ means a transaction in which a person other than an individual (in this section referred to as the ‘stock borrower’)—

(a) obtains stock from another person other than an individual (in this section referred to as the ‘lender’), and

(b) gives an undertaking to provide to the lender, not later than 6 months after the date on which the said stock borrower obtained the stock referred to in paragraph (a), equivalent stock;”

(b) in subsection (3) by the substitution of “6 months” for “3 months” in both places where it occurs, and

(c) in subsection (4)—

(i) by the insertion of “, for a period of 3 years from the date of the stock borrowing,” after “maintain”, and

(ii) by the deletion of paragraph (a).

(2) (a) Paragraphs (a) and (b) of subsection (1) shall apply to stock borrowing transactions entered into on or after 6 April 1999, and

(b) Subsection (1)(c) shall apply to stock borrowing transactions entered into on or after 10 February 2000.

## Stock repo.

**129.**—(1) The Principal Act is amended in Part 7 by the insertion in Chapter 2 of the following section after section 87:

“87A.—(1) In this section—

‘equivalent stock’ has the meaning assigned to it by section 87 subject to references—

(a) to ‘obtained from the lender’ being read as ‘transferred to the repo buyer’,

(b) to ‘stock borrowing’ being read as ‘stock transfer’,

(c) to ‘lender’ being read as ‘repo seller’,

(d) to ‘stock borrower’ being read as ‘repo buyer’,

(e) to ‘borrowed stock’ being read as ‘stock transferred’, and

(f) to ‘borrower’ being read as ‘repo buyer’;

'repurchase agreement' means an agreement between a person other than an individual (in this section referred to as the 'repo seller') and another person other than an individual (in this section referred to as the 'repo buyer') whereby the repo seller agrees to sell stock to the repo buyer on terms that the repo seller will repurchase, and the repo buyer will resell, equivalent stock not later than 6 months after the date of the stock transfer;

'stock return' means a transaction or transactions whereby a repo buyer conveys equivalent stock to a repo seller in pursuance of a repurchase agreement and within the 6 month time limit referred to in the repurchase agreement;

'stock transfer' means a transaction whereby a repo seller conveys stock to a repo buyer in pursuance of a repurchase agreement.

(2) Stamp duty shall not be chargeable on a stock transfer or on a stock return.

(3) If and to the extent that the repo seller does not repurchase or cause to be repurchased from the repo buyer before the expiration of the period of 6 months from the date of the stock transfer equivalent stock the repo buyer shall pay to the Revenue Commissioners within 14 days after the expiration of that period the amount of ad valorem duty which would have been chargeable on the stock so transferred if this section had not been enacted.

(4) If any repo buyer fails to duly pay any sum which that repo buyer is liable to pay under subsection (3), that sum, together with—

(a) interest on that sum at the rate of 1 per cent per month or part of a month from the first day after the expiration of the period of 6 months referred to in subsection (3) to the date of payment of that sum, and

(b) by means of further penalty, a sum equal to 1 per cent of the duty for each day the duty remains unpaid,

shall be recoverable from the repo buyer as a debt due to the Minister for Finance for the benefit of the Central Fund.

(5) Every repo buyer shall maintain, for a period of 3 years from the date of the stock transfer, separate records of each stock transfer and any stock return made in respect of that stock transfer and such records shall include, in respect of each stock transfer, the following:

(a) the name and address of the repo seller;

(b) the type, nominal value, description and amount of the stock transferred by the repo seller;

(c) the date on which the stock was transferred to the repo buyer;

(d) the date on which equivalent stock should be repurchased by the repo seller;

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(e) the type, nominal value, description and amount of the stock returned by the repo buyer to the repo seller and the date of such return;

(f) where paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of the definition of 'equivalent stock' applies, full details of that equivalent stock."

(2) This section shall apply—

(a) in relation to subsections (1) and (2) of section 87A, to a stock transfer and a stock return in respect of such stock transfer each of which are executed on or after 6 April 1999, and

(b) in relation to subsections (3), (4) and (5) of section 87A, to a stock transfer and a stock return in respect of such stock transfer each of which are executed on or after 10 February 2000.

Reorganisation of undertakings for collective investment.

**130.**—(1) The Principal Act is amended by the insertion of the following section after section 88:

"88A.—Stamp duty shall not be chargeable on any conveyance or transfer of assets in respect of which no chargeable gain accrues by virtue of section 739A (inserted by the *Finance Act, 2000*) of the Taxes Consolidation Act, 1997."

(2) This section shall apply and have effect in relation to a conveyance or transfer executed on or after the date of the passing of this Act.

Amendment of section 97 (certain transfers following the dissolution of a marriage) of Principal Act.

**131.**—(1) Section 97 of the Principal Act is amended in subsection (2):

(a) by the deletion in subparagraph (i) of paragraph (a) of "or",

(b) by the substitution in subparagraph (ii) of paragraph (a) of "1996, or" for "1996.", and

(c) by the insertion of the following subparagraph after subparagraph (ii):

"(iii) to an order or other determination to like effect, which is analogous to an order referred to in subparagraph (i) or (ii), of a court under the law of another territory made under or in consequence of the dissolution of a marriage, being a dissolution that is entitled to be recognised as valid in the State."

(2) This section shall apply to an order or other determination to like effect where the order or the determination is made on or after 10 February 2000.

Relief in respect of certain payments of stamp duty.

**132.**—(1) The Principal Act is amended in Part 8 by the insertion of the following section after section 120:

"120A.—The statement required to be delivered pursuant to this Part in respect of a transaction specified in section 116(1)(c) shall, in any case where, within the period of 4 years immediately before the date of the transaction and on or after 4 August 1973, there has been a reduction in the issued capital of the capital company concerned as a result of losses sustained by the



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company, be charged at the rate of zero per cent in respect of so much of the amount determined in accordance with section 118 as corresponds to the reduction in issued capital or to so much of the reduction in issued capital to which the rate of zero per cent had not been applied in respect of an earlier transaction occurring since the reduction in capital.”

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(2) This section shall apply and have effect in relation to transactions executed on or after 15 December 1999.

**133.**—(1) Schedule 1 to the Principal Act, is amended—

Amendment of  
Schedule 1 to  
Principal Act.

(a) by the substitution under the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance” of the following paragraph for paragraph (15):

“(15) Where in the case of a conveyance or transfer on sale or in the case of a conveyance or transfer operating as a voluntary disposition inter vivos the instrument contains a certificate by the party to whom the property is being conveyed or transferred to the effect that the person becoming entitled to the entire beneficial interest in the property (or, where more than one person becomes entitled to a beneficial interest in the property, each of them) is related to the person or each of the persons immediately theretofore entitled to the entire beneficial interest in the property in one or other of the following ways, that is, as a lineal descendant, parent, grandparent, step-parent, husband or wife, brother or sister of a parent or brother or sister, or lineal descendant of a parent, husband or wife or brother or sister ... ..

a duty of an amount equal to one-half of the ad valorem stamp duty which, but for the provisions of this paragraph, would be chargeable under this heading but where the calculation results in an amount which is not a multiple of £1 the amount so calculated shall be rounded up to the nearest £.”,

(b) by the substitution in paragraph (1) of the Heading “LEASE” of “£15,000” for “£6,000”.

(2) (a) *Subsection (1)(a)* shall have effect in relation to instruments executed on or after 10 February 2000.

(b) *Subsection (1)(b)* shall have effect in relation to instruments executed on or after 1 December 1999.

## PART 5

## Residential Property Tax

Amendment of section 100 (market value exemption limit) of Finance Act, 1983.

**134.**—(1) Section 100 of the Finance Act, 1983, is amended in subsection (1) by the substitution in the definition of “general exemption limit” of “£300,000” for “£200,000” (inserted by the Finance Act, 1999) and of “2000” for “1999” (as so inserted).

(2) This section shall have effect in relation to any valuation date (within the meaning of section 95(1) of the Finance Act, 1983) occurring on or after 5 April 2000.

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

**135.**—(1) Section 110A (inserted by the Finance Act, 1993) of the Finance Act, 1983, is amended by the insertion of the following subsection after subsection (11):

“(12) Subsection (2) of this section shall not apply to the sale of an estate or interest in residential property which has been previously acquired after 5 April 1996 by a bona fide purchaser for full consideration in money or money’s worth.”.

(2) This section shall apply and have effect in relation to the sale of an estate or interest in residential property (within the meaning of Part VI of the Finance Act, 1983) completed after 10 February 2000.

## PART 6

## Capital Acquisitions Tax

Interpretation (*Part 0*).

**136.**—In this Part “Principal Act” means the Capital Acquisitions Tax Act, 1976.

Amendment of section 2 (interpretation) of Principal Act.

**137.**—(1) Section 2 of the Principal Act is amended by the insertion after subsection (5) of the following subsection:

“(5A) For the purposes of this Act—

(a) a reference to a person being resident in the State on a particular date shall be construed as a reference to that person being resident in the State in the year of assessment in which that date falls (but, for those purposes, the provisions of Part 34 of the Taxes Consolidation Act, 1997, relating to residence of individuals shall not be construed as requiring a year of assessment to have elapsed before a determination of whether or not a

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person is resident in the State on a date falling in that year may be made), and Pt.6 S.137

(b) a reference to a person being ordinarily resident in the State on a particular date shall be construed as a reference to that person being ordinarily resident in the State in the year of assessment in which that date falls.”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

**138.**—(1) Section 6 of the Principal Act is amended by—

Amendment of section 6 (taxable gift) of Principal Act.

(a) the substitution of the following subsection for subsection (1):

“(1) In this Act ‘taxable gift’ means—

(a) in the case of a gift, other than a gift taken under a discretionary trust, where the disponer is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift, the whole of the gift;

(b) in the case of a gift taken under a discretionary trust where the disponer is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift or at the date of the gift or was (in the case of a gift taken after the death of the disponer) so resident or ordinarily resident at the date of that death, the whole of the gift;

(c) in the case where the donee is resident or ordinarily resident in the State at the date of the gift, the whole of the gift; and

(d) in any other case, so much of the property of which the gift consists as is situate in the State at the date of the gift.”,

(b) the substitution of the following subsections for subsection (3):

“(3) For the purposes of subsection (1), a person who is not domiciled in the State on a particular date shall be treated as not resident and not ordinarily resident in the State on that date unless—

(a) that date occurs on or after 1 December 2004,

(b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and

(c) that person is either resident or ordinarily resident in the State on that date.

(4) (a) In this subsection—

‘company’ means a private company within the meaning assigned to it by section 16(2);

‘company controlled by the donee’ has the same meaning as is assigned to ‘company controlled by the donee or successor’ by section 16(3);

‘share’ has the meaning assigned to it by section 16(2).

(b) For the purposes of subsection (1)(d), a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the gift) is a company controlled by the donee shall be deemed to be a sum situate in the State and shall be the amount determined by the following formula—

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

where—

A is the market value of that share at the date of the gift ascertained under section 16,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the gift, and

C is the total market value of all property in the beneficial ownership of that company at the date of the gift.

(c) Paragraph (b) shall not apply in a case where the disponent was domiciled outside the State at all times up to and including the date of the gift or, in the case of a gift taken after the death of the disponent, up to and including the date of that death or where the share in question is actually situate in the State at the date of the gift.”.

(2) Subject to *subsection (3)*, this section shall have effect in relation to gifts taken on or after 1 December 1999.

(3) Notwithstanding *subsection (2)*, this section shall not have effect in relation to a gift taken under a disposition where the date of the disposition is before 1 December 1999.

**139.**—(1) Section 12 of the Principal Act is amended by—

(a) the substitution of the following subsection for subsection (1):

“(1) In this Act, ‘taxable inheritance’ means—

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- (a) in the case where the disponer is resident or ordinarily resident in the State at the date of the disposition under which the successor takes the inheritance, the whole of the inheritance;
- (b) in the case where the successor (not being a successor in relation to a charge for tax arising by virtue of section 106 of the Finance Act, 1984, section 103 of the Finance Act, 1986, or section 110 of the Finance Act, 1993) is resident or ordinarily resident in the State at the date of the inheritance, the whole of the inheritance; and
- (c) in any case, other than a case referred to in paragraph (a) or (b), where at the date of the inheritance—
  - (i) the whole of the property—
    - (I) which was to be appropriated to the inheritance; or
    - (II) out of which property was to be appropriated to the inheritance, was situate in the State, the whole of the inheritance;
  - (ii) a part or proportion of the property—
    - (I) which was to be appropriated to the inheritance; or
    - (II) out of which property was to be appropriated to the inheritance, was situate in the State, that part or proportion of the inheritance.”,

(b) in subsection (2), by the substitution of “subsection (1)(c)” for “subsection (1)(b)”,

(c) the insertion of the following subsections after subsection (2):

“(3) For the purposes of subsection (1), a person who is not domiciled in the State on a particular date shall be treated as not resident and not ordinarily resident in the State on that date unless—

- (a) that date occurs on or after 1 December 2004,
- (b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and
- (c) that person is either resident or ordinarily resident in the State on that date.

(4) (a) In this subsection—

‘company’ means a private company within the meaning of section 16(2);

‘company controlled by the successor’ has the same meaning as is assigned to ‘company controlled by the donee or successor’ by section 16(3);

‘share’ has the meaning assigned to it by section 16(2).

- (b) For the purposes of subsection (1)(b), a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the inheritance) is a company controlled by the successor shall be deemed to be a sum situate in the State and shall be the amount determined by the following formula—

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

where—

A is the market value of that share at the date of the inheritance ascertained under section 16,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the inheritance, and

C is the total market value of all property in the beneficial ownership of that company at the date of the inheritance.

- (c) Paragraph (b) shall not apply in a case where the disponer was not domiciled in the State at the date of the disposition under which the successor takes the inheritance or where the share in question is actually situate in the State at the date of the inheritance.”.

(2) Subject to *subsection (3)*, this section shall have effect in relation to inheritances taken on or after 1 December 1999.

(3) Notwithstanding *subsection (2)*, this section shall not have effect in relation to an inheritance taken under a disposition where the date of the disposition is before 1 December 1999.

**140.**—(1) Section 19 of the Principal Act is amended—

- (a) by the substitution of the following definition for the definition of “farmer” in subsection (1):

“‘farmer’, in relation to a donee or successor, means an individual who is domiciled in the State and in respect of whom not less than 80 per cent of the market value of the property to which the individual is beneficially entitled in possession is represented by the market value of property

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in the State which consists of agricultural property, and, Pt.6 S.140  
for the purposes of this definition—

- (a) no deduction shall be made from the market value of property for any debts or encumbrances, and
- (b) an individual shall be deemed to be beneficially entitled in possession to—
  - (i) an interest in expectancy, notwithstanding the definition of ‘entitled in possession’ in section 2, and
  - (ii) property which is subject to a discretionary trust under or in consequence of a disposition made by the individual where the individual is an object of the trust.”,

(b) in subsection (5), by the substitution of the following paragraph for paragraph (a):

“(a) The agricultural value shall cease to be applicable to agricultural property, other than crops, trees or underwood, if and to the extent that such property, or any agricultural property which directly or indirectly replaces such property—

- (i) is sold or compulsorily acquired within the period of 6 years after the date of the gift or the date of the inheritance; and
- (ii) is not replaced, within a year of the sale or compulsory acquisition, by other agricultural property,

and tax shall be chargeable in respect of the gift or inheritance as if the property were not agricultural property:

Provided that this paragraph shall not have effect where the donee or successor dies before the property is sold or compulsorily acquired.”.

(2) Paragraph (a) of subsection (1) shall have effect in relation to gifts or inheritances taken on or after 10 February 2000, and paragraph (b) of subsection (1) shall have effect where the sale or compulsory acquisition which causes the agricultural value to cease to be applicable occurs on or after 10 February 2000.

**141.**—(1) Section 36 of the Principal Act is amended—

Amendment of section 36 (delivery of returns) of Principal Act.

(a) by the substitution of the following subsection for subsection (4):

“(4) Subsection (2) applies to a charge for tax arising by reason of the provisions of section 106 of the Finance Act, 1984, and to any other gift where—

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- (a) the aggregate of the taxable values of all taxable gifts taken by the donee on or after 2 December 1988, which have the same group threshold (as defined in the Second Schedule) as that other gift, exceeds an amount which is 80 per cent of the threshold amount (as defined in the Second Schedule) which applies in the computation of tax on that aggregate; or
- (b) the donee or, in a case to which section 23(1) applies, the transferee (within the meaning of, and to the extent provided for by, that section) is required by notice in writing by the Commissioners to deliver a return,

and for the purposes of this subsection, a reference to a gift includes a reference to a part of a gift or to a part of a taxable gift, as the case may be.”,

- (b) by the substitution of the following paragraph for paragraph (a) of subsection (14):

“(a) the taxable value of the taxable gift exceeds an amount which is 80 per cent of the group threshold (as defined in the Second Schedule) which applies in relation to that gift for the purposes of the computation of the tax on that gift.”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

Amendment of section 48 (receipts and certificates) of Principal Act.

**142.**—Section 48 of the Principal Act is amended by—

- (a) the substitution of the following subsections for subsections (3), (4) and (5):

“(3) The Commissioners shall, on application to them by a person who is an accountable person in respect of any of the property of which a taxable gift or taxable inheritance consists, if they are satisfied that the tax charged on the property in respect of the taxable gift or taxable inheritance has been or will be paid, or that there is no tax so charged, give a certificate to the person, in such form as they think fit, to that effect.

(3A) Where a person who is an accountable person in respect of the property of which a taxable gift or taxable inheritance consists has—

- (a) delivered to the Commissioners, a full and true return of all the property comprised in the gift or inheritance on the valuation date and such particulars as may be relevant to the assessment of tax in respect of the gift or inheritance,
- (b) made on that return an assessment of such amount of tax as, to the best of that person’s knowledge, information and belief, ought to be charged, levied and paid, and



(c) duly paid the amount of such tax (if any),

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the Commissioners may give a certificate to the person, in such form as they think fit, to the effect that the tax charged on the property in respect of the taxable gift or taxable inheritance has been paid or that there is no tax so charged.

(4) A certificate referred to in subsection (3) or (3A) shall discharge the property from liability for tax (if any) in respect of the gift or inheritance, to the extent specified in the certificate, but shall not discharge the property from tax in case of fraud or failure to disclose material facts and, in any case, shall not affect the tax payable in respect of any other property or the extent to which tax is recoverable from any accountable person or from the personal representatives of any accountable person:

Provided that a certificate purporting to be a discharge of the whole tax payable in respect of any property included in the certificate in respect of a gift or inheritance shall exonerate from liability for such tax a bona fide purchaser or mortgagee for full consideration in money or money's worth without notice of such fraud or failure and a person deriving title from or under such a purchaser or mortgagee.

(5) Subject to the provisions of subsection (6), where tax is chargeable on the taxable value of a taxable gift or taxable inheritance and—

(a) application is made to the Commissioners by any person (in this section referred to as 'the applicant')—

(i) who is a person accountable, but not primarily accountable, for the payment of the whole or part of the tax, or

(ii) who is the personal representative of any person referred to in subparagraph (i),

and

(b) the applicant—

(i) delivers to the Commissioners a full and true return of all the property comprised in the gift or inheritance and such particulars as may be relevant to the assessment of tax in respect of the gift or inheritance, and

(ii) makes on that return an assessment of such amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid,

the Commissioners may, upon payment of the tax assessed by the applicant, give a certificate to the applicant which shall discharge the applicant from any other claim for tax in respect of the gift or inheritance.”,

and

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(b) the deletion of subsection (7).

Amendment of  
section 54  
(provisions relating  
to charities, etc.) of  
Principal Act.

**143.**—(1) Section 54 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) Where any person takes a benefit for public or charitable purposes that person shall be deemed—

(a) for the purposes of sections 5(1) and 11(1), to have taken that benefit beneficially, and

(b) for the purposes of the Second Schedule, to have taken a gift or an inheritance accordingly to which the group threshold of £15,000 applies.”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

Amendment of  
section 55  
(exemption of  
certain objects) of  
Principal Act.

**144.**—(1) Section 55 of the Principal Act is amended by the substitution of the following subsection for subsection (4):

“(4) The exemption referred to in subsection (2) shall cease to apply to an object, if at any time after the valuation date and—

(a) before the sale of the object,

(b) before the death of the donee or successor, and

(c) before such object again forms part of the property comprised in a gift or an inheritance (other than an inheritance arising by virtue of section 103 of the Finance Act, 1986) in respect of which gift or inheritance an absolute interest is taken by a person other than the spouse of that donee or successor,

there has been a breach of any condition specified in paragraph (b) or (c) of subsection (1).”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 10 February 2000.

Amendment of  
Second Schedule to  
Principal Act.

**145.**—(1) The Second Schedule to the Principal Act is amended—

(a) in Part I, by the substitution of the following paragraphs for paragraphs 1 to 7:

“1. In this Schedule—

‘group threshold’, in relation to a taxable gift or a taxable inheritance taken on a particular day, means—

(a) £300,000, where—

(i) the donee or successor is on that day the child, or minor child of a deceased child, of the disponer, or

(ii) the successor is on that day a parent of the disponer and—

(I) the interest taken is not a limited interest, and Pt.6 S.145

(II) the inheritance is taken on the death of the disponer;

(b) £30,000, where the donee or successor is on that day, a lineal ancestor, a lineal descendant (other than a child, or a minor child of a deceased child), a brother, a sister, or a child of a brother or of a sister of the disponer;

(c) £15,000, where the donee or successor (who is not a spouse of the disponer) does not, on that day, stand to the disponer in a relationship referred to in subparagraph (a) or (b);

‘the consumer price index number’, in relation to a year, means the All Items Consumer Price Index Number for that year as compiled by the Central Statistics Office and expressed on the basis that the consumer price index number at mid-November 1996 is 100;

‘Table’ means the Table contained in Part II of this Schedule;

‘threshold amount’ in relation to the computation of tax on any aggregate of taxable values under paragraph 3, means the group threshold that applies in relation to all of the taxable gifts and taxable inheritances included in that aggregate but, in computing under this Schedule the tax chargeable on a taxable gift or taxable inheritance taken after 31 December 2000, that group threshold shall, for the purposes of this definition, be multiplied by the figure, rounded to the nearest third decimal place, determined by dividing by 104.8 the consumer price index number for the year immediately preceding the year in which that taxable gift or taxable inheritance is taken.

2. In the Table ‘Value’ means the appropriate aggregate referred to in paragraph 3.

3. The tax chargeable on the taxable value of a taxable gift or a taxable inheritance (hereafter in this Schedule referred to as the first-mentioned gift or inheritance) taken by a donee or successor shall be of an amount equal to the amount by which the tax computed on aggregate A exceeds the tax computed on aggregate B, where—

(a) aggregate A is the aggregate of the following:

(i) the taxable value of the first-mentioned gift or inheritance, and

(ii) the taxable value of each and every taxable gift and taxable inheritance taken previously by the said donee or successor on or after 2 December 1988, which has the same group threshold as the first-mentioned gift or inheritance,

- (b) aggregate B is the aggregate of the taxable values of all such taxable gifts and taxable inheritances so previously taken which have the same group threshold as the first-mentioned gift or inheritance, and
- (c) the tax on an aggregate is computed at the rate or rates of tax applicable under the Table to that aggregate:

Provided that—

- (i) in a case where no such taxable gift or taxable inheritance was so previously taken, the amount of the tax computed on aggregate B shall be deemed to be nil, and
- (ii) the amount of an aggregate that comprises only a single taxable value shall be equal to that value.

4. In the Table any rate of tax shown in the second column is that applicable to such portion of the value (within the meaning of paragraph 2) as is shown in the first column.

5. For the purposes of this Schedule, all gifts and inheritances which have the same group threshold and which are taken by a donee or successor on the same day shall count as one, and to ascertain the amount of tax payable on one such gift or inheritance of several so taken on the same day, the amount of tax computed under this Schedule as being payable on the total of such gifts and inheritances so taken on that day shall be apportioned rateably, according to the taxable values of the several taxable gifts and taxable inheritances so taken on that day.”,

- (b) by the substitution of the following Part for Part II:

“PART II

TABLE

Portion of Value	Rate of tax
	Per cent
The threshold amount	Nil
The balance	20

”.

- (2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

Amendment of section 39 (extension of section 55 (exemption of certain objects) of Capital Acquisitions Tax Act, 1976) of Finance Act, 1978.

**146.**—(1) As respects the year 2001 and subsequent years, section 39 of the Finance Act, 1978, is amended in subsection (1A)(b) by the insertion in subparagraph (i) after “September” of “of which not less than 10 of the days during that period shall fall on a Saturday or a Sunday or both”.

- (2) This section shall apply to gifts and inheritances taken on or after 10 February 2000.

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*Finance Act, 2000.*

[No. 3.]

**147.**—(1) Section 109 of the Finance Act, 1993, is amended—

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Amendment of  
section 109  
(interpretation) of  
Finance Act, 1993.

(a) by the substitution in the definition of “the consumer price index number” of “mid-November 1996” for “mid-November, 1989”, and

(b) by the substitution of the following definition for the definition of “relevant threshold”:

“ ‘relevant threshold’ means—

(a) £40,000, where the death of the deceased occurred on or before 31 December 2000, and

(b) in any other case, £40,000 multiplied by the figure, rounded up to the nearest third decimal place, determined by dividing by 104.8 the consumer price index number for the year immediately preceding the year in which the death of the deceased occurred;”.

(2) This section shall apply and have effect in relation to persons dying on or after 1 December 1999.

**148.**—(1) Part VI of the Finance Act, 1994, is amended in Chapter 1—

Amendment of  
Chapter 1 (business  
relief) of Part VI of  
Finance Act, 1994.

(a) in section 134, by the substitution of the following subsections for subsections (1) and (2):

“(1) In determining for the purposes of this Chapter what part of the taxable value of a gift or inheritance is attributable to the value of relevant business property, so much of the last-mentioned value as is attributable to—

(a) any excepted assets within the meaning of subsection (2), or

(b) any excluded property within the meaning of subsection (7),

shall be left out of account.

(2) An asset shall be an excepted asset in relation to any relevant business property if it was not used wholly or mainly for the purposes of the business concerned throughout the whole or the last two years of the relevant period, but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately prior to the gift or inheritance was also a member of that group shall be treated as use for the purposes of the business concerned, unless that other company’s membership of the group falls to be disregarded under section 133:

Provided that the use of an asset for the purposes of a business to which section 127(4) relates shall not be treated as use for the purposes of the business concerned.”,

(b) in section 135—

- (i) by the substitution of the following subsection for subsection (1):

“(1) In this section ‘relevant period’, in relation to relevant business property comprised in a gift or inheritance, means the period of 6 years commencing on the date of the gift or inheritance.”,

and

- (ii) by the substitution of the following paragraph for paragraphs (ii) and (iii) of the proviso (inserted by the Finance Act, 1996) to subsection (2):

“(ii) this section shall not have effect where the donee or successor dies before the event which would otherwise cause the reduction to cease to be applicable.”,

and

- (c) by the insertion of the following section after section 135:

“Avoidance of double relief.

135A.—Where the whole or part of the taxable value of any taxable gift or taxable inheritance is attributable to agricultural property to which subsection (2) of section 19 of the Principal Act applies, such whole or part of the taxable value shall not be reduced under this Chapter.”.

(2) Paragraphs (a) and (c) of subsection (1) shall have effect in relation to gifts or inheritances taken on or after 10 February 2000 and paragraph (b) of subsection (1) shall have effect where the event which causes the reduction to cease to be applicable occurs on or after 10 February 2000.

Amendment of section 142 (exemption of certain transfers from capital acquisitions tax following the dissolution of a marriage) of Finance Act, 1997.

**149.**—(1) Section 142 of the Finance Act, 1997, is amended in subsection (2):

- (a) by the deletion of “and” in paragraph (c),
- (b) by the substitution in paragraph (d) of “1996, and” for “1996.”, and
- (c) by the insertion of the following paragraph after paragraph (d):

“(e) to an order or other determination to like effect, which is analogous to an order referred to in paragraph (a), (b), (c) or (d), of a court under the law of another territory made under or in consequence of the dissolution of a marriage, being a dissolution that is entitled to be recognised as valid in the State.”.

(2) This section shall apply to an order or other determination to like effect where the order or the determination is made on or after 10 February 2000.

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*Finance Act, 2000.*

[No. 3.]

**150.**—(1) Section 143 of the Finance Act, 1997, is amended in subsection (1):

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Amendment of section 143 (abatement and postponement of probate tax on certain property) of Finance Act, 1997.

(a) by the deletion in subparagraph (i) of paragraph (a) of “or”,

(b) by the substitution in subparagraph (ii) of paragraph (a) of “1996, or” for “1996,”, and

(c) by the insertion of the following subparagraph after subparagraph (ii):

“(iii) to an order or other determination to like effect, which is analogous to an order referred to in subparagraph (i) or (ii), of a court under the law of another territory made under or in consequence of the dissolution of a marriage, being a dissolution that is entitled to be recognised as valid in the State,”.

(2) This section shall apply to an order or other determination to like effect where the order or the determination is made on or after 10 February 2000.

**151.**—(1) The Principal Act is amended by the insertion of the following section after section 59B:

Exemption relating to certain dwellings.

“59C.—(1) In this section—

‘dwelling-house’ means—

(a) a building or part (including an appropriate part within the meaning of subsection (5) of section 5) of a building which was used or was suitable for use as a dwelling, and

(b) the curtilage of the dwelling-house up to an area (exclusive of the site of the dwelling-house) of one acre but if the area of the curtilage (exclusive of the site of the dwelling-house) exceeds one acre then the part which comes within this definition is the part which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the dwelling-house;

‘relevant period’, in relation to a dwelling-house comprised in a gift or inheritance, means the period of 6 years commencing on the date of the gift or the date of the inheritance.

(2) Subject to subsections (3), (4), (5) and (6), a dwelling-house comprised in a gift or inheritance which is taken by a donee or successor who—

(a) has continuously occupied as his or her only or main residence—

(i) that dwelling-house throughout the period of 3 years immediately preceding the date of the gift or the date of the inheritance, or

(ii) where that dwelling-house has directly or indirectly replaced other property, that dwelling-house and that other property for periods

which together comprised at least 3 years falling within the period of 4 years immediately preceding the date of the gift or the date of the inheritance,

- (b) is not, at the date of the gift or at the date of the inheritance, beneficially entitled to any other dwelling-house or to any interest in any other dwelling-house, and
- (c) continues to occupy that dwelling-house as his or her only or main residence throughout the relevant period,

shall be exempt from tax in relation to that gift or inheritance, and the value thereof shall not be taken into account in computing tax on any gift or inheritance taken by that person unless the exemption ceases to apply under subsection (5) or (6).

(3) The condition in paragraph (c) of subsection (2) shall not apply where the donee or successor has attained the age of 55 years at the date of the gift or at the date of the inheritance.

(4) For the purpose of paragraph (c) of subsection (2), the donee or successor shall be deemed to occupy the dwelling-house concerned as his or her only or main residence throughout any period of absence during which he or she worked in an employment or office all the duties of which were performed outside the State.

(5) If a dwelling-house exempted from tax by virtue of subsection (2) is sold or disposed of, either in whole or in part, within the relevant period, and before the death of the donee or successor (not being a donee or successor who had attained the age of 55 years at the date of the gift or inheritance), the exemption referred to in that subsection shall cease to apply to such dwelling-house unless the sale or disposal occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home.

(6) The exemption referred to in subsection (2) shall cease to apply to a dwelling-house, if at any time during the relevant period and—

- (a) before the dwelling-house is sold or disposed of, and
- (b) before the death of the donee or successor,

the condition specified in paragraph (c) of subsection (2) has not been complied with unless that non-compliance occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home, or in consequence of any condition imposed by the employer of the donee or successor requiring the donee or successor to reside elsewhere.

(7) Where a dwelling-house exempted from tax by virtue of subsection (2) (hereafter in this section referred to as the 'first-mentioned dwelling-house') is replaced within the relevant period by another dwelling-house, the condition specified in paragraph (c) of subsection (2) shall be treated as satisfied if the



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*Finance Act, 2000.*

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donee or successor has occupied as his or her only or main residence the first-mentioned dwelling-house, that other dwelling-house and any dwelling-house which has within the relevant period directly or indirectly replaced that other dwelling-house for periods which together comprised at least 6 years falling within the period of 7 years commencing on the date of the gift or the date of the inheritance. Pt.6 S.151

(8) Any period of absence which would satisfy the condition specified in paragraph (c) of subsection (2) in relation to the first-mentioned dwelling-house shall, if it occurs in relation to any dwelling-house which has directly or indirectly replaced that dwelling-house, likewise satisfy the said condition as it has effect by virtue of subsection (7).

(9) Subsection (5) shall not apply to a case falling within subsection (7), but the extent of the exemption under this section in such a case shall, where the donee or successor had not attained the age of 55 years at the date of the gift or at the date of the inheritance, not exceed what it would have been had the replacement of one dwelling-house by another referred to in subsection (7), or any one or more of such replacements, taken place immediately prior to that date.”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

**152.**—(1) Section 58 of the Principal Act is amended by the insertion after subsection (3) of the following subsection:

Amendment of section 58 (exemption of certain receipts) of Principal Act.

“(4) The receipt by a minor child of the disponent of money or money’s worth for support, maintenance or education, at a time when the disponent and the other parent of that minor child are dead, shall not be a gift or an inheritance where the provision of such support, maintenance or education—

(a) is such as would be part of the normal expenditure of a person in the circumstances of the disponent immediately prior to the death of the disponent; and

(b) is reasonable having regard to the financial circumstances of the disponent immediately prior to the death of the disponent.”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after the date of the passing of this Act.

**153.**—(1) Section 128 of the Finance Act, 1990, and sections 116 and 117 of the Finance Act, 1991, are repealed. Repeals etc.

(2) This section shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

## PART 7

### Miscellaneous

**154.**—In this Part “Principal Act” means the Taxes Consolidation Act, 1997. Interpretation (Part 7).

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Capital Services  
Redemption  
Account.**155.**—(1) In this section—

“1999 amending section” means section 215 of the Finance Act, 1999;

“capital services” has the same meaning as it has in the principal section;

“fiftieth additional annuity” means the sum charged on the Central Fund under *subsection (4)*;

“principal section” means section 22 of the Finance Act, 1950.

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on 31 December 2000, *subsection (4)* of the 1999 amending section shall have effect with the substitution of “£155,132,708” for “£142,789,461”.

(3) *Subsection (6)* of the 1999 amending section shall have effect with the substitution of “£117,443,787” for “£109,751,200”.

(4) A sum of £198,742,933 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on 31 December 2000.

(5) The fiftieth 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 fiftieth additional annuity, not exceeding £152,758,300 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the fiftieth additional annuity shall be applied in any one or more of the ways specified in *subsection (6)* of the principal section.

Amendment of  
section 138 (holding  
and investment of  
moneys of Post  
Office Savings Bank  
Fund, etc.) of  
Finance Act, 1993.

**156.**—Section 138(1)(b) of the Finance Act, 1993, is hereby amended by the substitution of the following subparagraph for subparagraph (iv):

“(iv) any financial futures or options traded on an exchange which is a regulated market that has been notified to the Commission of the European Communities by a Member State of those Communities under Article 16 of Council Directive 93/22/EEC of 10 May 1993;”.

Deposit accounts  
for Exchequer  
moneys.

**157.**—(1) In this section “Minister” means the Minister for Finance.

(2) The Minister may, whenever he or she considers it appropriate, establish deposit accounts denominated in the currency of the State under such terms and conditions as he or she deems fit.

(3) The Minister may, from time to time, pay moneys out of the Exchequer accounts at the Central Bank of Ireland into the accounts established under *subsection (2)*.

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(4) The Minister shall, from time to time, make disbursements out of amounts credited to accounts established under *subsection (2)* into and only into the Exchequer accounts at the Central Bank of Ireland. Pt.7 S.157

(5) Where the functions of the Minister under this section stand duly delegated to the National Treasury Management Agency under section 5 of the National Treasury Management Agency Act, 1990, any balance in accounts established under *subsection (2)* shall be consolidated with the balances in the Exchequer accounts for the purpose of the accounts prepared under section 12 of that Act, at the close of the financial year of the Agency.

(6) The First Schedule to the National Treasury Management Agency Act, 1990, is hereby amended by the addition of the following paragraph:

“(p) *subsections (2) to (4) of section 157 of the Finance Act, 2000.*”.

**158.**—Section 63 of the Central Bank Act, 1997, is amended by the substitution of the following subsection for subsection (1):

Amendment of section 63 of Central Bank Act, 1997.

“(1) Notwithstanding anything to the contrary contained in any enactment, or in any prospectus or other document relating to the terms of issue, holding or transfer of any securities or other instruments, the issue or the transfer of such securities or other instruments may be made and shall be effective if instructions for the issue or transfer are communicated by electronic means and any issue or transfer of securities shall be deemed to be effective if recorded in a computerised system selected by the Bank following consultation with the National Treasury Management Agency, without the need for instructions in writing.”.

**159.**—The Temporary Holding Fund for Superannuation Liabilities Act, 1999, is amended in section 1 by the insertion of the following after subsection (3):

Payment to Temporary Holding Fund for Superannuation Liabilities.

“(3A) The Minister shall pay into the Fund, in the financial year 2000, out of the Central Fund or the growing produce thereof, a sum not exceeding £1,850,000,000.”.

**160.**—Section 824 of the Principal Act is amended in subsection (1) by the substitution of “Part” for “Chapter”.

Amendment of section 824 (appeals) of Principal Act.

**161.**—As respects each year (being the calendar year 2000 and subsequent calendar years) section 1003 of the Principal Act is amended in subsection (2) (c) by the substitution in subparagraph (ii) of “£3,000,000” for “£750,000”, and that subparagraph, as so amended, is set out in the Table to this section.

Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.

TABLE

(ii) exceeds an amount (which shall not be less than £75,000) determined by the formula—

$$£3,000,000 - M$$

where M is an amount (which may be nil) equal to the market value of the heritage item (if any) or the aggregate of the market values at the respective valuation dates of all the heritage items (if any), as the case may be, in respect of which a determination or determinations, as the case may be, under this subsection has been made by

the selection committee in any one calendar year and not revoked in that year.

Amendment of section 1086 (publication of names of tax defaulters) of Principal Act.

**162.**—(1) Section 1086 of the Principal Act is amended—

(a) in subsection (2)—

(i) by the substitution in paragraph (b) of “tax,” for “tax, or” and the substitution in paragraph (c) (iii) of “tax, or” for “tax.”, and

(ii) by the insertion after paragraph (c) of the following:

“(d) in whose case the Revenue Commissioners, having initiated proceedings for the recovery of any fine or penalty of the kind mentioned in paragraphs (a) and (b), and whether or not a fine or penalty of the kind mentioned in those paragraphs has been imposed by a court, accepted or undertook to accept, in that relevant period, a specified sum of money in settlement of any claim by the Revenue Commissioners in respect of any specified liability of the person under any of the Acts for—

(i) payment of any tax,

(ii) payment of interest on that tax, and

(iii) a fine or other monetary penalty in respect of that tax.”,

(b) by the insertion after subsection (2) of the following:

“(2A) For the purposes of subsection (2), the reference to a specified sum in paragraphs (c) and (d) of that subsection includes a reference to a sum which is the full amount of the claim by the Revenue Commissioners in respect of the specified liability referred to in those paragraphs.”,

(c) in subsection (4)—

(i) by the substitution of “Paragraphs (c) and (d)” for “Paragraph (c)”, and

(ii) by the substitution, in paragraph (c) of “paragraph (c) or (d), as the case may be,” for “paragraph (c)”,

and

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

“(5A) Without prejudice to the generality of paragraph (a) of subsection (5), such particulars as are referred to in that paragraph may include—

(a) in a case to which paragraph (a) or (b) of subsection (2) applies, a description, in such summary form as the Revenue Commissioners may think fit, of the act, omission or offence (which may also include the circumstances in

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which the act or omission arose or the offence was committed) in respect of which the fine or penalty referred to in those paragraphs was imposed, and

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(b) in a case to which paragraph (c) or (d) of subsection (2) applies, a description, in such summary form as the Revenue Commissioners may think fit, of the matter occasioning the specified liability (which may also include the circumstances in which that liability arose) in respect of which the Revenue Commissioners accepted, or undertook to accept, a settlement, in accordance with those paragraphs.”.

(2) This section shall apply—

(a) as respects fines or other penalties, as are referred to in paragraphs (a) and (b) of section 1086(2), which are imposed by a court, and

(b) as respects specified sums, as are referred to in paragraphs (c) and (d) of section 1086(2), which the Revenue Commissioners accepted, or undertook to accept, in settlement of a specified liability,

on or after the passing of this Act.

**163.**—Section 1094 of the Principal Act is amended in subsection (1), in the definition of “licence” by the addition of the following paragraph after paragraph (j):

Amendment of section 1094 (tax clearance in relation to certain licences) of Principal Act.

“(k) subsection (2A) (inserted by *section 106 of the Finance Act, 2000*) of section 62 of the National Cultural Institutions Act, 1997;”.

**164.**—Part 42 of the Principal Act is amended in Chapter 5 by the insertion after section 1006 of the following:

Amendment of Chapter 5 (miscellaneous provisions) of Part 42 (collection and recovery) of Principal Act.

“Offset between taxes.

1006A.—(1) In this section—

‘Acts’ means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (d) the statutes relating to the duties of excise and to the management of those duties,
- (e) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act,
- (f) the Stamp Duties Consolidation Act, 1999,

(g) Part VI of the Finance Act, 1983, and the enactments amending or extending that Part,

(h) Chapter IV of Part II of the Finance Act, 1992,

and any instrument made thereunder;

'claim' means a claim that gives rise to a repayment of tax under any of the Acts and includes part of such a claim;

'liability' means any tax, duty, levy or other charge due or estimated to be due under the Acts for a taxable period, income tax month, income tax year, chargeable period or chargeable event, as appropriate;

'overpayment' means a payment or remittance under the Acts (including part of such a payment or remittance) which is in excess of the amount of the liability against which it is credited.

(2) Notwithstanding any other provision of the Acts, where the Revenue Commissioners are satisfied that a person has not complied with all the obligations imposed on the person by the Acts, in relation to—

(a) the payment of a liability required to be paid, and

(b) the delivery of returns required to be made,

they may instead of making a repayment to the person in respect of any claim or overpayment made by the person set the amount of the claim or overpayment against any liability due under the Acts.

(3) The Revenue Commissioners shall make regulations for the purpose of giving effect to this section and, without prejudice to the generality of the foregoing, such regulations shall provide for the order of priority of liabilities due under the Acts against which any claim or overpayment is to be set in accordance with subsection (2).

(4) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

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Appropriation of  
payments.

1006B.—(1) In this section—

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‘Acts’ means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Value-Added Tax Act, 1972,  
and the enactments amending or  
extending that Act,

and any instruments made thereunder;

‘payment’ means a payment or a remittance of a liability under the Acts and includes part of such a payment or remittance;

‘liability’ means any tax or charge due under the Acts for a taxable period, income tax month, income tax year or chargeable period, as appropriate.

(2) Notwithstanding any other provision of the Acts, where a payment is received by the Revenue Commissioners from a person and it cannot reasonably be determined by the Revenue Commissioners from the instructions, if any, which accompanied the payment which liabilities the person wishes the payment to be set against, the Revenue Commissioners may set the payment against any liability due by the person under the Acts.

(3) The Revenue Commissioners shall make regulations for the purpose of giving effect to this section and, without prejudice to the generality of the foregoing, such regulations shall provide for the order of priority of liabilities due under the Acts against which a payment is to be set in accordance with subsection (2).

(4) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

**165.**—All taxes and duties imposed by this Act are by virtue of this section placed under the care and management of the Revenue Commissioners.

Care and  
management of  
taxes and duties.

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Short title,  
construction and  
commencement.**166.**—(1) This Act may be cited as the Finance Act, 2000.

(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 1999, and may be cited together with those Acts as the Value-Added Tax Acts, 1972 to 2000.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act, 1999.

(6) *Part 5* shall be construed together with Part VI of the Finance Act, 1983, and the enactments amending or extending that Part.

(7) *Part 6* (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.

(8) *Part 7* (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 customs) shall be construed with the Customs Acts and (so far as relating to duties of excise) shall be construed together with the statutes which relate to duties of excise and the management of those duties and (so far as relating to value-added tax) shall be construed together with the Value-Added Tax Acts, 1972 to 2000, and (so far as relating to stamp duty) shall be construed together with the Stamp Duties Consolidation Act, 1999, 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.

(9) Except where otherwise expressly provided in *Part 1*, that Part shall apply as on and from 6 April 2000.

(10) In relation to *Part 3*:

(a) *sections 107 and 121 and paragraphs (a) and (b) of section 123* shall be deemed to have come into force and shall take effect as on and from the 1 July 1999;

(b) *sections 111 and 113* shall be deemed to have come into force and shall take effect as on and from the 1 March 2000;

(c) the provisions of this Part, other than those specified in *paragraphs (a) and (b)*, shall have effect as on and from the date of passing of this Act.



(11) 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.

(12) 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.

(13) 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 14.*

### Amendments Consequential on the Introduction of Standard Rated Allowances

The Taxes Consolidation Act, 1997, is amended in accordance with the following provisions of this Schedule.

1. In section 3(1), in the definition of “relative” by the substitution of “relief” for “a deduction”.

2. In section 7(2), by the substitution of “relief” for “a deduction”.

3. In section 188(3), by the substitution of “relief under section 461(2) as an individual referred to in paragraph (a)(i) of the definition of ‘specified amount’ in subsection (1) of that section” for “a deduction specified in section 461(a)”.

4. In section 467(4), by the substitution of “entitled to relief” for “entitled to a deduction”.

5. In section 469—

(a) in subsection (1), in the definition of “dependant” by the substitution—

(i) in paragraph (a), of “relief under section 461(2) as an individual referred to in paragraph (a)(i) of the definition of ‘specified amount’ in subsection (1) of that section” for “a deduction mentioned in section 461(a)”, and

(ii) in paragraph (b), of “relief” for “a deduction”,

and

(b) by the substitution of the following subsection for subsection (4):

“(4) Subsections (5) to (7) of section 465 shall, with any necessary modifications, apply for the purposes of determining whether relief is to be granted under this section as they apply in determining whether relief is to be allowed under that section; but, where the child’s income exceeds the amount specified in subsection (6) of that section, relief under this section shall not be allowed.”.

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6. In section 1023, by the insertion—
- (a) in subsection (1), of “461A,” before “462”, and
  - (b) in subsection (2)(a), of “and reliefs” after “total income”.
7. In section 1024(2)(a), by the substitution—
- (a) in subparagraph (ii), of “subsection (4)” for “subsection (3)”,
  - (b) in subparagraph (iii), of “section 465(4)” for “section 465(3)”, and
  - (c) of the following subparagraph for subparagraph (viii):
    - “(viii) relief under sections 472, 472A and 472B, to the husband or to the wife according as the emoluments from which relief under those sections is granted are emoluments of the husband or of the wife;”.
8. In section 1025(1), by the substitution of “relief under section 465” for “a deduction under section 465”.

Section 69.

## SCHEDULE 2

Amendments and Repeals Consequential on Abolition of  
Tax Credits

## PART 1

*Amendments*

The Taxes Consolidation Act, 1997, is amended—

- (a) in section 2, by the insertion of the following after subsection (3):
  - “(3A) In the Tax Acts, a reference to a tax credit, in relation to a distribution, shall be construed as a reference to a tax credit as computed in accordance with those Acts as they applied at the time of the making of the distribution.”,
- (b) in section 137(5), by the substitution for “subsections (2) to (4)” of “subsections (2) and (3)”,
- (c) in section 140, by the substitution of the following for subsection (8):
  - “(8) Where a period of account for or in respect of which a company makes a distribution is not an accounting period and part of the period of account is within an accounting period, the proportion of the distribution to be treated for the purposes of this section as being for or in respect of the accounting period shall be the same proportion as that part of the period of account bears to the whole of that period.
  - (9) Where a company makes a distribution which is not expressed to be for or in respect of a specified period,

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the distribution shall be treated for the purposes of this section as having been made for the accounting period in which it is made.” Sch.2

(d) in section 141(10), by the substitution for “Subsections (6) and (7) of section 145” of “Subsections (8) and (9) of section 140”,

(e) in section 142(6), by the substitution for “subsections (6) and (7) of section 145” of “subsections (8) and (9) of section 140”,

(f) in section 143—

(i) by the substitution in subsection (1)(c) for “the tax credit comprised in which has been reduced under this section” of “which consists of a distribution made out of relieved income”, and

(ii) by the substitution in subsection (10) for “subsections (6) and (7) of section 145” of “subsections (8) and (9) of section 140”,

(g) in section 144—

(i) by the substitution in subsection (8) for “where R, S and T have the same meanings respectively as in section 147(1)(a)” of the following:

“where—

R is the amount of income of the company charged to corporation tax for the accounting period with the addition of any amount of income of the company which would be charged to corporation tax for the accounting period but for section 231, 232, 233 or 234, or section 71 of the Corporation Tax Act, 1976; and, for the purposes of this definition—

(a) the income of a company for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne exclusive of the part of the profits attributable to chargeable gains, and

(b) the part referred to in paragraph (a) shall be taken to be the amount brought into the company’s profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description,

S is the amount of the corporation tax which, before any set-off of or credit for tax, including foreign tax, and after any relief under

section 448 or paragraph 16 or 18 of Schedule 32, or section 58 of the Corporation Tax Act, 1976, is chargeable for the accounting period, exclusive of the corporation tax, before any credit for foreign tax, chargeable on the part of the company's profits attributable to chargeable gains for that period; and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description, and

T is the amount of the distributions received by the company in the accounting period which is included in its franked investment income of the accounting period, other than franked investment income against which relief is given under section 83(5), 157 or 158, and which relief was not subsequently withdrawn under those sections, with the addition of any amount received by the company in the accounting period to which section 140(3)(a), 141(3)(a), 142(4) or 144(3)(a) applies",

and

(ii) by the substitution in subsection (9) for "Subsections (6) and (7) of section 145" of "Subsections (8) and (9) of section 140",

(h) in section 152(1)(a), by the insertion of "and" after "interest paid,"

(j) in section 154—

(i) in subsection (1)—

(I) by the substitution in paragraph (a) of "144 and 145" for "144, 145 and 147(2)" and of "144 and 145" for "144, 145 and 147", and

(II) by the deletion in paragraph (b) of " and subsections (1), (2) and (4) of subsection 147,"

and

(ii) by the substitution of the following for subsection (6):

"(6) For the purposes of this section, the amount of the undistributed income of a company for an accounting period shall be the amount determined by the formula—

$$(R - S) + T - W,$$

reduced by the amount of each distribution, or part of each distribution, made before that day and on or after 6 April 1989, which is to be treated under this section, or which was treated

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under section 147, as made for that accounting period, Sch.2

where—

R, S and T have the same meanings respectively as in section 144(8), and W is the amount of the distributions made by the company before 6 April 1989, which—

- (a) were made for the accounting period,
- (b) are, by virtue of subsection (7), deemed to have been made for the accounting period, or
- (c) would be deemed to have been made for the accounting period by virtue of subsection (9) of section 140 if that subsection were treated as applying for the purposes of this section as it applies for the purpose of that section.

(7) For the purposes of this section—

- (a) where the total amount of the distributions made by a company for an accounting period exceeds the amount determined by the formula—

$$(R - S) + T$$

for that accounting period (where R, S and T have the same meanings respectively as in section 144(8)), the excess shall be deemed for the purposes of this section to be a distribution for the immediately preceding accounting period, and

- (b) where the total amount of the distributions made or deemed under paragraph (a) to have been made by a company for the immediately preceding accounting period referred to in paragraph (a) exceeds the amount determined for that accounting period in accordance with the formula mentioned in paragraph (a), the excess shall be deemed to be a distribution for the immediately preceding accounting period and so on.”.

(k) in section 155(3)(a), by the insertion of “and” after “distribution,”,

(l) in section 167(3), by the substitution for “Sections 160, 162 and 171” of “Sections 160 and 162”,

(m) in section 174(2)(i), by the insertion of “and” after “the price,”,

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(n) in section 714(1), by the substitution for “sections 707 and 713” of “section 713”,

(o) in section 838(4), by the substitution of the following for paragraph (f):

“(f) Subject to subsection (5), where in a year of assessment the relevant income or gains of a special portfolio investment account includes a distribution from a company resident in the State, the amount or value of that distribution shall be taken into account in computing the relevant income or gains for that year of assessment.”,

and

(p) in section 1084(2)(b)(i), by the insertion of “and” after “contained in the assessment to tax,”.

## PART 2

Sch.2

*Repeals*

## Taxes Consolidation Act, 1997

Provision (1)	Extent of Repeal (2)
Section 2(1)	The definition of "tax credit".
Section 2(4)	The whole subsection.
Section 20(1)	Paragraph 3 of Schedule F.
Section 136	The whole section.
Section 137(1)	The words from " , and 'relevant tax credit' " to "in respect of the bonus issue".
Section 137(2)	The words "or relevant tax credit".
Section 137(4)	The whole subsection.
Section 137(5)	The words " ; and nothing in those subsections shall affect the like proportion of the relevant tax credit relating to that bonus issue".
Section 138(3)(a)	The whole paragraph.
Section 139	The whole section.
Section 140(3)(b)	The whole paragraph.
Section 140(4)	The whole subsection.
Section 140(5)	The words "(not being a supplementary distribution under this section)".
Section 140(6)	The whole subsection.
Section 141(3)(b)	The whole paragraph.
Section 141(6)	The whole subsection.
Section 141(7)	The words "(not being a supplementary distribution under this section)".
Section 141(8)	The whole subsection.
Section 142(2)	The words "and, notwithstanding section 136, the recipient of the distribution shall not be entitled to a tax credit in respect of it".
Section 142(5)	The whole subsection.
Section 142(7)	The words "(not being a supplementary distribution under this section)".
Section 143(2)	The whole subsection.
Section 143(3)	The words " , and the tax credit in respect of each such distribution shall be calculated in accordance with subsection (2) and section 136 respectively".
Section 143(5)	The whole subsection.

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Provision (1)	Extent of Repeal (2)
Section 143(7)	The words from “, and, where” to “so reduced”.
Section 143(8)	The whole subsection.
Section 143(9)	The whole subsection.
Section 143(11)	The words “(not being a supplementary distribution under this section)”, and “and the amount of the tax credit which would apply in respect of the distribution if it were not made out of relieved income”.
Section 144(3)(b)	The whole paragraph.
Section 144(4)	The whole subsection.
Section 144(5)	The words “(not being a supplementary distribution under this section)”.
Section 144(6)	The whole subsection.
Section 145	The whole section.
Section 146	The whole section.
Part 6, Chapter 5 (sections 147 to 151)	The whole Chapter.
Section 152(1)(b)	The whole paragraph.
Section 152(3)(a)	The words from “and (whether” to “entitled in respect of the distribution”.
Section 154(4)	The whole subsection.
Section 154(5)	The whole subsection.
Section 155(3)(b)	The whole paragraph.
Section 165	The whole section.
Section 168	The whole section.
Section 169	The whole section.
Section 170	The whole section.
Section 171	The whole section.
Section 172	The whole section.
Section 174(2)(ii)	The whole subparagraph.
Section 434(1)	In the definition of “distributable income” the words “reduced by the tax credit comprised in that income” in paragraph (a) and the words “as so reduced” in paragraph (b).
Section 434(5)	In paragraph (b) of the definition of “distributable investment income” the words “(as reduced by the tax credit comprised in that income)” in each place it occurs.
Section 434(5)	In the definition of “distributable estate income” the words “(as reduced by the tax credit comprised in that income)”.
Section 440(5)	The whole subsection.



Provision (1)	Extent of Repeal (2)
Section 519(7)	The words “, but the trustees shall not be entitled to the set-off or payment of a tax credit under section 136 in respect of those dividends”.
Section 707(5)(a)(i)	The whole subparagraph.
Section 707(5)(a)(ii)	The whole subparagraph.
Section 712(1)	The words “, and the income represented by the distribution shall be equal to the aggregate of the amount of the distribution and the amount of the tax credit in respect of the distribution”.
Section 712(2)	The whole subsection.
Section 713(1)(b)	The words “or under section 136, 712(2) or 730”.
Section 714(2)	The whole subsection.
Section 729(5)	The whole subsection.
Section 729(7)	The whole subsection.
Section 730	The whole section.
Section 737(7)(a)	The whole paragraph.
Section 737(7)(b)	The whole paragraph.
Section 737(9)(b)	The words “; but, notwithstanding subsection (7) or section 136, the tax credit in respect of a distribution to which this paragraph applies shall be disregarded for the purposes of the Tax Acts and the Capital Gains Tax Acts”.
Section 738(3)(a)(i)	The words “, and the income represented by the distribution shall be equal to the aggregate of the distribution and the amount of the tax credit in respect of the distribution”.
Section 738(3)(a)(ii)	The whole subparagraph.
Section 738(3)(b)	The whole paragraph.
Section 838(4)(g)	The whole paragraph.
Section 838(5)(c)	The words from “; but notwithstanding” to “the Capital Gains Tax Acts”.
Section 877(2)	The whole subsection.
Section 884(2)(b)	The words “and the tax credits to which the company is entitled in respect of those distributions”.
Section 884(4)	The words “and of tax credits to which the company is entitled in respect of those distributions”.
Section 1021(2)	The words “(including a tax credit in respect of a distribution from a company resident in the State)”.
Section 1084(2)(b)(ii)	The whole subparagraph.
Schedule 32, paragraph 4	The whole paragraph.

## SCHEDULE 3

## Rates of Excise Duty on Tobacco Products

Description of Product	Rate of Duty
Cigarettes ... ..	£80.99 per thousand together with an amount equal to 18.57 per cent of the price at which the cigarettes are sold by retail
Cigars ... ..	£123.465 per kilogram
Fine-cut tobacco for the rolling of cigarettes ...	£104.186 per kilogram
Other smoking tobacco ... ..	£85.655 per kilogram