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FINANCE ACT, 1999

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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. [25th March, 1999]

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

Chapter 2

Income Tax

2.—As respects the year of assessment 1999-2000 and subsequent years of assessment, Chapter 1 of Part 7 of the Principal Act is hereby amended— Amendment of provisions relating to exemption from income tax.

(a) in section 187, by the substitution, in subsection (1), of the following for paragraph (a):

“(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*), £8,200, and”;

and

(b) in section 188, by the substitution of the following for subsection (2):

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

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(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*), £13,000, and

(b) in any other case £6,500."

Alteration of rates of income tax.

3.—Section 15 of the Principal Act is hereby amended, as respects the year of assessment 1999-2000 and subsequent years of assessment, by the substitution of the following Table for the Table to that section:

"TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £14,000	24 per cent	the standard rate
The remainder	46 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £28,000	24 per cent	the standard rate
The remainder	46 per cent	the higher rate

".

Personal reliefs.

4.—As respects the year of assessment 1999-2000 and subsequent years of assessment, the Principal Act is hereby amended—

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

"Standard rated personal allowances.

461.—(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;

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

(a) £8,400, 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

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(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,

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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) £4,200 in the case of any other claimant.

(2) The income tax to be charged on an individual, 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.

Additional allowance for widowed person.

461A.—For the purpose of ascertaining his or her taxable income for a year of assessment, a widowed person, other than a person referred to in paragraph (a) of the definition of ‘specified amount’ in section 461(1), shall be entitled to a deduction of £500.”,

and

(b) in the Table to section 458—

(i) by the substitution, in Part 1, of “section 461A” for “section 461”, and

(ii) by the insertion, in Part 2, after “section 244” of “section 461(2)”.

5.—As respects the year of assessment 1999-2000 and subsequent years of assessment, the Principal Act is hereby amended—

Reliefs for widowed parents and other single parents.

(a) by the substitution of the following for section 462:

“Widowed parents and other single parents: standard rated allowance.

462.—(1) (a) 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 any claimant and year of assessment, means—

(i) a child—

(I) born in the year of assessment,

(II) who, at the commencement of the year of assessment, is under the age of 18 years, or

(III) who, if over the age of 18 years at the commencement of the year of assessment—

(A) is receiving full-time instruction at any university, college, school or other educational establishment, or

(B) 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 such full-time instruction,

and

(ii) a child who is a child of the claimant or, not being such a child, is in the custody of the claimant and is maintained by the claimant at the claimant’s own expense for the whole or part of the year of assessment.

'the specified amount' means Pt.1 S.5
£1,050.

- (b) This section shall apply to an individual other than an individual referred to in paragraph (a) of the definition of 'specified amount' in section 461(1).

(2) Subject to subsection (3), where a claimant, being an individual to whom this section applies, proves for a year of assessment that 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 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 in relation to the individual, or
- (b) 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 husband or a wife where the husband and wife are living together, or in the case of a man and woman living together as man and wife.

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

- (4) (a) The references in subsection (1)(a) to a child receiving full-time instruction at an educational establishment shall include references 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 purposes 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.

(5) (a) Where in any year of assessment a qualifying child is entitled in his or her own right to an income exceeding £720 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.

(6) Where any question arises as to whether any person is entitled to reduction of tax under this section in respect of a child over the age of 18 years as being a child who is receiving full-time instruction referred to in this section, the Revenue Commissioners may consult the Minister for Education and Science.

Additional allowance for widowed parents and other single parents.

462A.—(1) (a) For the purposes of this section, 'qualifying child', in relation to a claimant and a year of assessment, has the same meaning as in section 462, and the question of whether a child is a qualifying child shall be determined on the same basis as it would be for the purposes of section 462, and subsections (4), (5)(b) and (6) of that section shall apply accordingly.

(b) This section shall apply to an individual other than an individual referred to in paragraph (a) of the definition of 'specified amount' in section 461(1).

(2) Subject to subsection (3), where a claimant, being an individual to whom this section applies, proves for a year of assessment that a qualifying child is resident with him or her for the whole or part of the year, the claimant shall be entitled—

(a) if he or she is a widowed person, to a deduction of £2,650, or

(b) if he or she is an individual other than a widowed person, to a deduction of £3,150,

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but this section shall not apply for any year of assessment in the case of a husband or a wife where the husband and wife are living together, or in the case of a man and woman living together as man and wife. Pt.1 S.5

(3) A claimant shall be entitled to only one deduction under subsection (2) for any year of assessment irrespective of the number of qualifying children resident with the claimant in that year.

(4) No deduction shall be allowed under this section for any year of assessment in respect of any child who is entitled in his or her own right to an income exceeding £1,770 in that year except that, if the amount of the excess is less than the deduction which would be allowable apart from this subsection, a deduction reduced by that amount shall be allowed.”,

and

(b) in the Table to section 458—

- (i) by the substitution, in Part 1, of “section 462A” for “section 462”, and
- (ii) by the insertion, in Part 2, of “section 462” after “section 461(2)” (inserted by this Act).

6.—Chapter 1 of Part 15 of the Principal Act is hereby amended—

Amendment of Chapter 1 of Part 15 of the Principal Act.

- (a) in section 465, by the substitution, in each place where it occurs, of “18 years” for “16 years” in paragraphs (a) and (b) of subsection (1) and paragraph (a) of subsection (2), and
- (b) in section 469, by the substitution in subsection (1), in the definition of “dependant”, of “18 years” for “16 years” in each place where it occurs.

7.—As respects the year of assessment 1999-2000 and subsequent years of assessment, the Principal Act is hereby amended—

Employee allowance.

(a) in the Table to section 458—

- (i) by the deletion of “section 472” from Part 1, and
- (ii) by the insertion, in Part 2, of “section 472” after “section 462” (inserted by this Act),

and

(b) in section 472—

- (i) in subsection (1)(a):
 - (I) by the insertion before the definition of “emoluments” of the following definition—

“‘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 after the definition of “‘proprietary director’” of the following definition—

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

(a) £1,000, or

(b) the amount which is included in the individual’s total income for the year of assessment in respect of emoluments,

and, in the case where the claimant is a married person assessed to tax in accordance with section 1017, the specified amount in relation to the individual’s spouse shall be the amount which would have been the specified amount in relation to that spouse if he or she had been assessed in accordance with section 1016;”,

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

“(4) Where, for any year of assessment, a claimant proves that his or her total income for the year consists in whole or in part of emoluments, 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 in relation to that individual and, where the claimant is a married person assessed to tax in accordance with section 1017, the specified amount in relation to that individual’s spouse, or

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

and

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

“(5) Where a reduction under this section is to be made from income charged to tax for any year of assessment by virtue of the operation of subsection (2), such reduction shall be given by means of repayment of tax.”.

9.—As respects the year of assessment 1999-2000 and subsequent years of assessment, the Principal Act is hereby amended by the substitution of the following for section 467:

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Employed person taking care of incapacitated individual.

“467.—(1) In this section ‘relative’, in relation to an individual, includes a relation by marriage and a person in respect of whom the individual is or was the legal guardian.

(2) Subject to this section, where an individual for a year of assessment proves—

- (a) that throughout the year of assessment either he or she or a relative of the individual was totally incapacitated by physical or mental infirmity, and
- (b) that for the year of assessment the individual, or in a case to which section 1017 applies, the individual’s spouse, has employed a person (including a person whose services are provided by or through an agency) for the purpose of having care of the individual (being the individual or the individual’s relative) who is so incapacitated,

the individual shall, in computing the amount of his or her taxable income, be entitled to a deduction from his or her total income of the lesser of—

- (i) the amount ultimately borne by him or her or the individual’s spouse in the year of assessment in employing the employed person, and
- (ii) £8,500 in respect of each such incapacitated individual.

(3) Where 2 or more individuals are entitled for a year of assessment to a deduction under this section in respect of the same incapacitated individual, the following provisions shall apply:

- (a) the aggregate of the deductions to be granted to those individuals shall not exceed £8,500, and
- (b) the relief to be granted under this section in relation to the incapacitated individual shall be apportioned between them in proportion to the amount ultimately borne by each of them in employing the employed person.

(4) Where for any year of assessment a deduction is allowed to an individual under this section, the individual shall not be entitled to a deduction in respect of the employed person (including a person whose services are provided by or through an agency) under section 465 or section 466.”.

10.—Section 122 of the Principal Act is hereby amended, as respects the year 1999-2000 and subsequent years of assessment, by the substitution in the definition of “the specified rate” in paragraph (a) of subsection (1) of—

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

- (a) “6 per cent” for “7 per cent” in both places where it occurs, and

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(b) "10 per cent" for "11 per cent",

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

(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,

the rate of 6 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 6 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.

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

11.—Section 126 of the Principal Act is hereby amended by the substitution, in subsection (8), of the following for paragraph (b) (inserted by the Finance Act, 1998):

“(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 the 6th day of April, 1997, and ending on the 5th day of April, 2000, to a person employed in short-time employment.”.

Treatment of income arising as a result of certain public subscriptions raised on behalf of incapacitated individuals.

12.—The Principal Act is hereby amended—

(a) in Chapter 1 of Part 7 by the insertion of the following section after section 189:

“Special trusts for permanently incapacitated individuals.

189A.—(1) In this section—

‘incapacitated individual’ means an individual who is permanently and totally incapacitated, by reason of mental or physical

infirmity, from being able to maintain him- Pt.1 S.12
self or herself;

‘public subscriptions’ means subscriptions, in the form of money or other property, raised, following an appeal made in that behalf to members of the public, for the benefit of one or more incapacitated individual or individuals, whose identity or identities is or are known to the persons making the subscriptions, being subscriptions that meet either of the following conditions, namely—

- (a) the total amount of the subscriptions does not exceed £300,000, or
- (b) no amount of the subscriptions, at any time on or after the specified return date for the chargeable period for which exemption is first claimed under either subsection (2) or (3), constitutes a subscription made by any one person that is greater than 30 per cent of the total amount of the subscriptions;

‘qualifying trust’ means a trust established by deed in respect of which it is shown to the satisfaction of the inspector or, on appeal, to the Appeal Commissioners, that—

- (a) the trust has been established exclusively for the benefit of one or more specified incapacitated individual or individuals, for whose benefit public subscriptions, within the meaning of this section, have been raised,
- (b) the trust requires that—
 - (i) the trust funds be applied for the benefit of that individual or those individuals, as the case may be, at the discretion of the trustees of the trust, and
 - (ii) in the event of the death of that individual or those individuals, as the case may be, the undistributed part of the trust funds be applied for charitable purposes or be appointed in favour of the trustees of charitable bodies,

and

- (c) none of the trustees of the trust is connected (within the meaning

of section 10) with that individual or any of those individuals, as the case may be;

‘specified return date for the chargeable period’ has the same meaning as in section 950;

‘trust funds’ means, in relation to a qualifying trust—

- (a) public subscriptions, raised for the benefit of the incapacitated individual or individuals, the subject or subjects of the trust, and
- (b) all moneys and other property derived directly or indirectly from such public subscriptions.

(2) Income arising to the trustees of a qualifying trust in respect of the trust funds, being income consisting of dividends or other income which but for this section would be chargeable to tax under Schedule C or under Case III, IV (by virtue of section 59 or section 745) or V of Schedule D or under Schedule F, shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.

(3) Income (in this subsection referred to as ‘the relevant income’) which—

- (a) consists of payments made by the trustees of a qualifying trust to or in respect of any incapacitated individual, being a subject of the trust, or
- (b) arises to such an incapacitated individual from the investment in whole or in part of payments made by the trustees of a qualifying trust or of income derived from such payments, being income consisting of dividends or other income which but for this section would be chargeable to tax under Schedule C or under Case III, IV (by virtue of section 59 or section 745) or V of Schedule D or under Schedule F,

shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts; but this subsection shall not apply in a case unless the relevant income is the sole or main income of the individual to or in respect of whom the relevant income arises.

(4) The provisions of the Income Tax Acts relating to the making of returns of

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total income shall apply as if this section had not been enacted. Pt.1 S.12

(5) This section shall have effect as respects the year 1997-98 and subsequent years of assessment.”,

and

(b) in section 267, as respects relevant interest paid on or after the 6th day of April, 1997, by the insertion—

(i) in subsection (2) (a), of “section 189A(2) or” after “by virtue of”, and

(ii) in subsection (3), of “or would, but for the provisions of section 189(2), section 189A(3) or section 192(2), have included relevant interest,” after “any relevant interest” where those words first occur.

13.—Chapter 1 of Part 7 of the Principal Act is hereby amended—

Amendment of Chapter 1 (income tax) of Part 7 of Principal Act.

(a) in section 189, by the substitution in subsection (2) of “(by virtue of section 59 or section 745)” for “(by virtue of section 59)”, and

(b) in section 192, by the substitution in subsection (2) (b) of “(by virtue of section 59 or section 745)” for “(by virtue of section 59)”.

14.—(1) Section 201(1) (a) of the Principal Act is hereby amended, by the substitution in the definition of “basic exemption” of “£8,000” for “£6,000” and of “£600” for “£500”.

Amendment of section 201 (exemptions and reliefs in respect of tax under section 123) of Principal Act.

(2) Subsection (1) shall apply and have effect as respects payments made on or after the 1st day of December, 1998.

15.—Section 472B (inserted by the Finance Act, 1998) of the Principal Act is hereby amended by the substitution, in subsection (2), of the following for paragraph (b):

Seafarer allowance, etc.

“(b) a port outside the State shall be deemed to include a mobile or fixed rig, platform or installation of any kind in any maritime area.”.

16.—Part 16 of the Principal Act is hereby amended—

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

(a) in section 488, by the substitution, as on and from the 6th day of April, 1997, in the definition of “unquoted company” in subsection (1), of the following paragraph for paragraph (b):

“(b) quoted on an unlisted securities market of a stock exchange other than—

(i) on the market known, and referred to in this definition, as the Developing Companies Market of the Irish Stock Exchange, or

(ii) on the Developing Companies Market of the Irish Stock Exchange and on any similar or corresponding market of the

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stock exchange of one or more Member States of the European Communities; but this subparagraph shall not apply unless the shares, stocks or debentures are quoted on the Developing Companies Market of the Irish Stock Exchange before or at the same time as they are firstly quoted on an unlisted securities market of a stock exchange of another Member State of the European Communities.”,

- (b) in section 489, by the substitution in subsection (15), of “5th day of April, 2001” for “5th day of April, 1999”, and
- (c) in section 490, by the substitution in subsections (3)(b) and (4)(b) of “the year 2000-01” for “the year 1998-99”.

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

17.—Schedule 13 to the Principal Act is hereby amended by—

- (a) the deletion of paragraphs 23, 47 and 63, and
- (b) the addition of the following paragraphs after paragraph 82:
- “83. The Office of the Director of Telecommunications Regulation.
84. The Law Reform Commission.
85. Northern Regional Fisheries Board — Bord Iascaigh Réigiúnach an Tuaisceart.
86. The Office for Health Management.
87. Hospital Bodies Administration Bureau.
88. National Social Services Board.
89. National Standards Authority of Ireland.
90. Enterprise Ireland.
91. Dublin Docklands Development Authority.
92. A commission established by the Government or a Minister of the Government for the purpose of providing information to the public in relation to a referendum referred to in section 1 of Article 47 of the Constitution.
93. The Office of the Ombudsman.
94. The Public Offices Commission.
95. The Office of the Information Commissioner.”.

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

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

- (a) in section 530(1)—
- (i) by the insertion of the following definition after the definition of “forestry operations”:
- “‘income tax month’ means a month beginning on the 6th day of any of the months of April to March in any year;”,
- (ii) by the substitution of the following for the definition of “qualifying period”:
- “‘qualifying period’ means the period of 3 years, or such shorter period as the inspector may allow,

ending on the 5th day of April in the year preceding the year of assessment which is the first year of assessment of the period, in respect of which a certificate of authorisation is sought together with the period, if any, from the 6th day of April in the said first year of assessment to the date on which the application for the said certificate is received by the Revenue Commissioners;”,

and

- (iii) in the definition of “relevant contract” by the substitution of the following for paragraph (c):

“(c) to furnish the contractor’s own labour or the labour of others in the carrying out of relevant operations or to arrange for the labour of others to be furnished for the carrying out of such operations;”,

and

- (b) in section 531—

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

“(3A) (a) Within 9 days from the end of an income tax month, a principal or any person who was previously a principal and who has been required to do so by notice in writing from the Revenue Commissioners, shall—

- (i) make a return to the Collector-General, on the prescribed form, of the amount, if any, of tax which that person was liable under this section to deduct from payments made to uncertified sub-contractors during that income tax month, and
- (ii) remit to the Collector the amount of the tax, if any, which the person was so liable to deduct.

(b) The Collector-General shall furnish the person concerned with a receipt in respect of the payment; such a receipt shall consist of whichever of the following the Collector-General considers appropriate, namely—

- (i) a separate receipt on the prescribed form in respect of each such payment, or
- (ii) a receipt on the prescribed form in respect of all such payments that have been made within a period specified in the receipt.”,

- (ii) by the substitution in the portion of subsection (6) that precedes paragraphs (a) to (h) of that subsection of “assessment (including estimated assessment), estimation, charge, collection and recovery of tax deductible under subsection (1)” for “assessment

(including estimated assessment), charge, collection and recovery of tax deductible under subsection (1)”,

- (iii) by the substitution of the following for subsection (10):

“(10) Subsection (9) shall apply to tax recoverable from a person by virtue of a notice issued under the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971), as if the tax were tax which the person was liable under subsection (3A) to remit—

- (i) where the notice relates to an income tax month or months, for the respective income tax month or months referred to in the notice, and
- (ii) where the notice relates to a year, the last income tax month of the year to which the notice relates.”,

- (iv) in paragraph (a) of subsection (11)—

(I) by the deletion of “and” after subparagraph (iv),

(II) by the substitution, in subparagraph (v), for “qualifying period.” of “qualifying period, and”, and

- (III) by the addition of the following subparagraph after subparagraph (v):

“(vi) in the case of a person who was resident outside the State at some time during the qualifying period, that the person has throughout the qualifying period complied with all the obligations comparable to those mentioned in subparagraph (iv) imposed by the laws of the country in which that person was resident at any time during the qualifying period.”,

- (v) by the substitution of the following for subsection (12):

“(12) (a) Where a subcontractor to whom a certificate of authorisation has been issued produces it to a principal, the principal shall apply to the Revenue Commissioners for a card (in this Chapter referred to as a ‘relevant payments card’) in respect of the subcontractor.

(b) Notwithstanding paragraph (a), where—

- (i) a subcontractor has notified the Revenue Commissioners of details of the bank account, held in the State in the name of the subcontractor or in the case of a subcontractor who is not resident in the State, held either in the State or in the State in which the subcontractor is resident, into which payments in respect of relevant contracts are to be made

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(hereafter in this subsection referred to as 'the nominated bank account'),
and

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- (ii) the principal undertakes to make all payments to the subcontractor in question directly to the nominated bank account,

the principal may apply to the Revenue Commissioners for a relevant payments card where the subcontractor has provided details of the certificate of authorisation to the principal together with details of the nominated bank account into which payments are to be made by the principal.

- (c) Notwithstanding paragraphs (a) and (b), a principal may apply for a relevant payments card in respect of a subcontractor even though the subcontractor has not produced or provided details of a certificate of authorisation for the year to which the relevant payments card relates, where—

- (i) the principal has been issued with a relevant payments card in relation to that subcontractor for the immediately preceding year, and
- (ii) the relevant contract between the principal and the subcontractor in relation to which the relevant payments card is required is ongoing at the end of that year.

- (d) Where on such application the Revenue Commissioners are satisfied that a relevant payments card in respect of the subcontractor ought to be issued to the principal, they shall issue such a card to the principal who, on receiving the card shall, subject to subsection (13), be entitled during the income tax year (or the unexpired portion of the income tax year) to which the relevant payments card relates to make payment without deduction of tax to the subcontractor named on the card but, in the case of an application to which paragraph (b) applies or an application to which paragraph (c) applies where the relevant payments card mentioned in subparagraph (i) of that paragraph was issued following an application made under and in accordance with paragraph (b), any such payments shall be made by the principal directly to the nominated bank account.”,

- (vi) by the insertion of the following subsection after subsection (17):

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“(17A) Any person who is aggrieved by the cancellation of a certificate of authorisation by the Revenue Commissioners in accordance with subsection (13) may, by notice in writing to that effect given to the Revenue Commissioners within 30 days from the date of such cancellation, appeal against such cancellation to the Appeal Commissioners but, pending the decision of the Appeal Commissioners in the matter, unless the Revenue Commissioners, on application to them, reinstate the certificate of authorisation pending the making of that decision, the certificate shall remain cancelled.”,

and

(vii) by the insertion in subsection (18) of “or subsection (17A)” after “subsection (17)”.

(2) (a) *Paragraphs (a) and (b), other than subparagraph (v) of paragraph (b), of subsection (1) shall apply as respects the year 1999-2000 and subsequent years of assessment.*

(b) *Subparagraph (v) of paragraph (b) of subsection (1) shall apply as respects applications for relevant payments cards made on or after the 6th day of October, 1999.*

Retirement
benefits.

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

(a) in Chapter 1 of Part 30—

(i) by the insertion in section 770, of the following definitions, namely—

(I) before the definition of “director” of:

“ ‘approved retirement fund’ has the meaning assigned to it by section 784A;

‘approved minimum retirement fund’ has the meaning assigned to it by section 784C;”,

and

(II) after the definition of “pension” of:

“ ‘proprietary director’ means a director who, either alone or together with his or her spouse and minor children is or was, at any time within three years of the date of—

(a) the specified normal retirement date,

(b) an earlier retirement date, where applicable, or

(c) leaving service,

the beneficial owner of shares which, when added to any shares held by the trustees of any settlement to which the director or his or her spouse had transferred assets, carry more than 20 per cent of the voting rights in the company providing the benefits or in a company which controls that company;”,

and

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(ii) in section 772—

(I) by the substitution in paragraph (f) of subsection (3), of “that, subject to subsection (3A),” for “that”, and

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

“(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, being a proprietary director of a company to which the scheme relates, 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 the amount equal to the value of the individual’s accrued rights under the scheme exclusive of any lump sum paid in accordance with paragraph (f) of subsection (3), and

B is the amount or value of assets which the trustees, administrator or other person charged with the management of the scheme (hereafter 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.

(b) The assumptions in this paragraph are—

- (i) that the retirement benefit scheme was an annuity contract approved in accordance with section 784,
- (ii) that the trustees of the retirement benefit scheme were a person lawfully carrying on the business in the State of providing annuities on human life with whom the said contract had been made, and
- (iii) that the individual had opted in accordance with subsection (2A) of section 784.

(3B) Where an individual opts in accordance with subsection (3A) then—

- (a) the provisions of subsection (2B) of section 784 and of sections 784A, 784B, 784C, 784D and 784E shall, with any necessary modifications, apply as if—
 - (i) any reference in those sections to the person lawfully carrying on in the State the business of granting annuities on human life were a reference to the trustees of the retirement benefit scheme,
 - (ii) any reference in those sections to the annuity contract were references to the retirement benefit scheme, and
 - (iii) any reference in those sections to Case IV of Schedule D were a reference to Schedule E, and
- (b) paragraph (f) of subsection (3) shall apply as if the reference to ‘a lump sum or sums not exceeding in all three-eighths of the employee’s final remuneration for each year of service up to a maximum of 40 years’ were a reference to ‘a lump sum not exceeding 25 per cent of the value of the pension which would otherwise be payable’.’’,

and

[1999.]

Finance Act, 1999.

[No. 2.]

(III) by the insertion of the following paragraph after Pt.1 S.19 paragraph (b) of subsection (4):

“(c) Notwithstanding paragraphs (a) and (b), the Revenue Commissioners shall not approve a scheme unless it appears to them that the scheme complies with the provisions of subsection (3A).”

(b) in Chapter 2 of Part 30—

(i) in paragraph (a) of section 783(1), by the insertion of the following definitions before the definition of “director”:

“ ‘approved retirement fund’ has the meaning assigned to it by section 784A;

‘approved minimum retirement fund’ has the meaning assigned to it by section 784C;”

(ii) in section 784—

(I) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) pays a premium or other consideration under an annuity contract for the time being approved by the Revenue Commissioners as being a contract by which the main benefit secured is, or would, but for the exercise of an option by the individual under subsection (2A), be a life annuity for the individual in his or her old age or under a contract for the time being approved under section 785 (in this Chapter referred to as a ‘qualifying premium’),”

(II) in paragraph (a) of subsection (2)—

(A) by the substitution for “Subject to subsection (3),” of “Subject to subsections (2A) and (3) and to section 786,”

(B) in subparagraph (iii)(II), by the substitution for “70 years” of “75 years”,

and

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

“(b) Notwithstanding paragraph (a)—

(i) the contract may provide for the payment to the individual, at the time the annuity commences to be payable or, where

the individual opts in accordance with subsection (2A), at the time of the transfer referred to in that subsection, of a lump sum by means of commutation of part of the annuity where the individual elects, at or before the time when the annuity first becomes payable to him or her or before the date of such transfer, to be paid the lump sum, and

(ii) the amount payable under subparagraph (i) shall not exceed 25 per cent of the value of the annuity payable or the value of the annuity which would have been payable if the individual had not opted in accordance with subsection (2A).

(c) The reference in paragraph (b)(i) to the commutation of part of the annuity shall, in a case where the individual has opted in accordance with subsection (2A), be construed as a reference to the commutation of the annuity which would, but for such election, be payable if the individual opted to have the annuity paid with effect from the date of the transfer referred to in that subsection.”,

(IV) by the insertion of the following subsections after subsection (2):

“(2A) The Revenue Commissioners shall not approve a contract unless it appears to them that the contract provides for the individual entitled to an annuity under the contract to exercise, on or before the date on which that annuity would otherwise become payable, an option for the transfer by the person with whom the contract is made, on or after that date, to—

(a) the individual, or

(b) an approved retirement fund,

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

$$A - B$$

where—

A is the amount equal to the value of the individual’s accrued rights under the contract exclusive of any lump sum paid in accordance with paragraph (b) of subsection (2), and

B is the amount or value of assets which the person with whom the contract is made is 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.

(2B) Where an individual opts in accordance with paragraph (a) of subsection (2A), the amount paid to the individual by virtue of that paragraph other than the amount payable by virtue of paragraph (b) of subsection (2) shall be regarded as income of the individual chargeable to income tax under Case IV of Schedule D for the year of assessment in which the payment is made.”,

and

(V) in subsection (3), by the deletion of paragraph (d),

(iii) by the insertion of the following sections after section 784:

“Approved retirement fund.

784A.—(1) (a) In this section—

‘approved retirement fund’ means a fund which is managed by a qualifying fund manager and which complies with the conditions of section 784B;

‘qualifying fund manager’ means—

- (a) a person who is a holder of a licence granted under section 9 of the Central Bank Act, 1971,
- (b) a building society within the meaning of section 256,
- (c) a trustee savings bank within the meaning of the Trustee Savings Banks Act, 1989,
- (d) ACC Bank plc,
- (e) ICC Bank plc,
- (f) ICC Investment Bank Limited,
- (g) the Post Office Savings Bank,

- (h) a credit union within the meaning of the Credit Union Act, 1997,
- (i) a collective investment undertaking within the meaning of section 172A,
- (j) a person lawfully carrying on in the State the business of granting annuities on human life,
- (k) a person—
 - (i) which is an authorised member firm of the Irish Stock Exchange, within the meaning of the Stock Exchange Act, 1995, or a member firm (which carries on a trade in the State through a branch or agency) of a stock exchange of any other Member State of the European Communities, and
 - (ii) which has sent to the Revenue Commissioners a notification of its name and address and of its intention to act as a qualifying fund manager,

or

- (l) such other person as the Minister for Finance may by order approve of for the purposes of this section;

‘tax reference number’, in relation to an individual, has the meaning assigned to it by section 885 in relation to a specified person within the meaning of that section.

(b) For the purposes of this Chapter, references to an approved retirement fund shall be construed as a reference to assets in an approved retirement fund which are managed for an individual by a qualifying fund manager and which are beneficially owned by the individual.

(2) The beneficial owner of assets in an approved retirement fund shall, subject to the provisions of the Income Tax Acts and the Capital Gains Tax Acts, be chargeable to income tax or capital gains tax, as the case may be, in respect of any income, profits or gains arising in respect of those assets or any chargeable gains on disposals of such assets.

(3) (a) A qualifying fund manager shall maintain a record (in this section and in section 784B referred to as 'the income and gains account') of the aggregate—

(i) of all income, profits and gains arising in respect of an approved retirement fund, and

(ii) of all gains and losses on disposal of investments made by the qualifying fund manager in relation to the approved retirement fund,

reduced by the aggregate of all distributions made in respect of the approved retirement fund.

(b) In calculating at any time the residue of the assets transferred to an approved retirement fund (in this section and in section 784B referred to as 'the residue') by the person lawfully carrying on in the State the business of granting annuities on human life—

(i) distributions made at or before that time shall be treated as made primarily out of the

income and gains
account,

- (ii) in so far as the distributions made from the fund exceed the aggregate of the balance on the income and gains account, they shall be treated as made out of the residue,

and, where assets in an approved retirement fund are transferred to another approved retirement fund, the residue in relation to those assets shall be calculated as if the assets had at all times been held in the approved retirement fund to which those assets had originally been transferred.

- (c) 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.

(4) Within 3 months after the end of a year of assessment, a qualifying fund manager shall provide a statement for that year of assessment to each individual, on whose behalf an approved retirement fund was managed at any time during that year of—

- (a) the income, profits or gains and the chargeable gains and allowable losses, as may be appropriate, in respect of the assets held in the approved retirement

fund at any time during Pt.1 S.19
that year,

- (b) the tax, if any, deducted from such income, profits or gains,
- (c) the income and gains account in relation to the fund, and
- (d) the residue including, in particular, any distributions made out of the residue in the year of assessment.

(5) The amount or value of any distribution out of the residue of an approved retirement fund other than a distribution to which subsection (7)(a) applies shall be treated as income of the individual beneficially entitled to the assets of the fund and shall be chargeable to income tax under Case IV of Schedule D for the year of assessment in which the said distribution is made.

(6) Subject to subsection (7), where the distribution referred to in subsection (5) occurs following the death of the individual, who was prior to death beneficially entitled to the assets of the approved retirement fund—

- (a) the amount or value of the said distribution shall be treated as the income of the said individual for the year of assessment in which that individual dies, and
- (b) the qualifying fund manager shall be liable to pay to the Collector-General income tax at the higher rate on the value of such distribution; the qualifying fund manager may deduct an amount on account of such tax and the person beneficially entitled to the residue of the approved retirement fund, including the personal representatives of the deceased individual, shall allow such deduction; but, where there are no such 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 shall be a debt due to the qualifying fund manager from the estate of the deceased individual.

(7) (a) This subsection shall apply to the extent that the distribution, made following the death of the individual beneficially entitled to the assets in the approved retirement fund, is made to—

(i) 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 who has not, at the date of the individual's death, attained the age of 21 years.

(b) Where the beneficial owner of the assets in the second-mentioned fund dies, subsection (6) shall apply as regards any distributions out of the residue of that approved retirement fund following that spouse's death as if the reference to the higher rate were a reference to a rate of 25 per cent.

(c) Where, in accordance with paragraph (b), the qualifying fund manager is required to account for tax at a rate of 25 per cent, the amount so charged to tax shall not, notwithstanding any provisions of the Income Tax Acts, be treated as income for any other purposes of those Acts.

Conditions relating to an approved retirement fund.

784B.—(1) The conditions of this section are—

(a) an approved retirement fund shall be held by a qualifying fund manager in the

name of the individual who is beneficially entitled to the assets in the fund, Pt.1 S.19

- (b) assets held in an approved retirement fund shall consist of and only of one or more of—
- (i) assets transferred to the fund by virtue of an option exercised by the individual in accordance with section 784(2A),
 - (ii) assets which were previously held in another approved retirement fund held in the name of the individual or the individual's deceased spouse, and
 - (iii) assets derived from such assets as are referred to in subparagraphs (i) and (ii),
- (c) the individual referred to in paragraph (a) shall, on the opening of an approved retirement fund, make a declaration of the kind mentioned in paragraph (d) to the qualifying fund manager, and
- (d) the declaration referred to in paragraph (c) shall be a declaration, in writing, to the qualifying fund manager which—
- (i) is made by the individual who is beneficially entitled to the assets in the approved retirement fund,
 - (ii) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
 - (iii) contains the full name, address and tax reference number of the individual referred to in subparagraph (i),
 - (iv) declares that the assets included in the fund

consist only of assets referred to in paragraph (b) to which the individual was beneficially entitled, and

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

(2) A qualifying fund manager shall not accept any assets into an approved retirement fund unless the fund manager receives a certificate to which subsection (3) applies in relation to those assets from a person lawfully carrying on in the State the business of granting annuities on human life or from another qualifying fund manager.

(3) A certificate to which this subsection applies is a certificate stating—

- (a) that the assets in relation to which the certificate refers are assets to which the individual named on the certificate is beneficially entitled and which are being transferred to the approved retirement fund, or have previously been transferred to an approved retirement fund, in accordance with subsection (2A) of section 784,
- (b) that the assets in relation to which the certificate is given do not form part of an approved minimum retirement fund within the meaning of section 784C, and
- (c) the amount of the balance on the income and gains account, and the residue in relation to the approved retirement fund, the assets of which are being transferred or assigned to the qualifying fund manager.

(4) Subsection (2) of section 263 shall apply to a declaration made in accordance with subsection (1)(c) or a certificate to which subsection (3)

applies as it applies in relation to declarations of a kind mentioned in that section.

(5) The Minister for Finance may by order specify requirements regarding the operation of approved retirement funds.

Approved minimum retirement fund.

784C.—(1) In this section, ‘an approved minimum retirement fund’ means a fund managed by a qualifying fund manager (within the meaning of section 784A) and which complies with the conditions of section 784D.

(2) Subject to subsections (3) and (4), where an individual, who has not attained the age of 75 years, exercises an option in accordance with subsection (2A) of section 784, the amount referred to as B in the formula in the said subsection which the person with whom the annuity contract is made shall—

(a) transfer to an approved minimum retirement fund in respect of that individual, or

(b) apply in the purchase of an annuity payable to the individual, shall be the lesser of—

(i) the amount referred to as A in that formula, or

(ii) £50,000.

(3) Where the individual has already exercised an option in accordance with subsection (2A) of section 784, the amount referred to as B in the formula in subsection (2A) shall be such amount as will result in the aggregate of the amount required in respect of all such options, in accordance with subsection (2A), to be transferred to an approved minimum retirement fund or applied in the purchase of an annuity payable to the individual being the lesser of—

(a) the aggregate of the amount referred to as A in that formula in relation to each contract, or

(b) £50,000.

(4) (a) Where, at the date of exercise of an option under subsection (2A) of section 784, the individual by whom the option is exercised is entitled to specified income amounting to £10,000 per annum, the amount referred to as B in the formula in the said section 784(2A) shall be nil.

(b) For the purposes of this subsection, 'specified income' means a pension or annuity which is payable for the life of the individual, including a pension payable under the Social Welfare (Consolidation) Act, 1993, and any pension to which the provisions of section 200 apply.

(5) Subject to subsection (6), the qualifying fund manager shall not make any payment or transfer of assets out of the approved minimum retirement fund other than—

(a) a transfer of all the assets of the fund to another qualifying fund manager to be held as an approved minimum retirement fund, or

(b) a payment or transfer of income, profits or gains, or gains on disposal of investments received by the qualifying fund manager in respect of assets held in the approved fund to the individual beneficially entitled to the assets in the fund.

(6) Where the individual referred to in subsection (2) attains the age of 75 years or dies, the approved minimum retirement fund shall, thereupon, become an approved retirement fund and the provisions of section 784A, subsections (1) and (5) of section 784B and section 784E shall apply accordingly.

(7) Any assets held as part of an approved minimum retirement fund shall be the property of the individual on whose behalf the fund is held and, subject to the provisions of the Income Tax Acts and the Capital Gains Tax

Acts, that individual shall be chargeable to income tax or capital gains tax, as the case may be, in respect of any income, profits or gains arising in respect of those assets or any chargeable gain on disposal of such assets.

(8) Within 3 months after the end of the year of assessment, a qualifying fund manager shall provide a statement for that year of assessment to each individual for that year of assessment, on whose behalf an approved minimum retirement fund was managed at any time during that year of—

(a) the income, profits or gains and the chargeable gains and allowable losses, as may be appropriate, in respect of the assets held in the approved minimum retirement fund at any time during that year, and

(b) the tax, if any, deducted from such income, profits or gains.

(9) The provisions of subsection (8) of section 784E shall apply as regards an approved minimum retirement fund as if references to an approved retirement fund were references to an approved minimum retirement fund.

Conditions relating to an approved minimum retirement fund.

784D.—(1) The conditions of this section are—

(a) an approved minimum retirement fund shall be held in the name of the individual who is beneficially entitled to the assets in the fund,

(b) assets held in an approved minimum retirement fund shall consist of one or more of the following—

(i) assets transferred to the fund by virtue of an option exercised by the individual in accordance with section 784(2A),

(ii) assets which were previously held in another approved minimum retirement fund held in the name of the individual, and

- (iii) assets derived from such assets as are referred to in subparagraphs (i) and (ii),
- (c) the individual referred to in paragraph (a) shall make a declaration of the kind mentioned in paragraph (d) to the qualifying fund manager,
- (d) the declaration referred to in paragraph (c) shall be a declaration, in writing, to the qualifying fund manager which—
 - (i) is made by the individual who is beneficially entitled to the assets in the approved minimum retirement fund,
 - (ii) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
 - (iii) contains the full name, address and tax reference number of the individual referred to in subparagraph (i),
 - (iv) declares that assets included in the fund consist only of assets referred to in paragraph (b) to which the individual was beneficially entitled in accordance with section 784(2A), and
 - (v) contains such other information as the Revenue Commissioners may reasonably require for the purposes of this Act.

(2) A qualifying fund manager shall not accept any assets into an approved minimum retirement fund unless the fund manager receives a certificate to which subsection (3) applies in relation to those assets from a person lawfully carrying on in the State the business of granting annuities on human life or from another qualifying fund manager.

(3) A certificate to which this subsection applies is a certificate stating—

- (a) that the assets in relation to which the certificate is given are the assets of an approved minimum retirement fund to which the individual named on the certificate is beneficially entitled and which are being transferred to the approved minimum retirement fund or have previously been transferred to such a fund in accordance with subsection (2A) of section 784,
- (b) in the case of assets transferred by another qualifying fund manager, the amount or value of assets transferred to the approved minimum retirement fund for the purposes of subsection (3) of section 784C.

(4) Subsection (2) of section 263 shall apply to a declaration made in accordance with subsection (1)(c) or a certificate to which subsection (3) applies as it applies in relation to declarations of a kind mentioned in that section.

(5) The Minister for Finance may specify requirements regarding the operation of approved minimum retirement funds.

Returns, and payment of tax, by qualifying fund managers.

784E.—(1) A qualifying fund manager shall, within 14 days of the end of the month in which a distribution is made out of the residue of an approved retirement fund, make a return to the Collector-General which shall contain details of—

- (a) the name and address of the person in whose name the approved retirement fund is or was held,
- (b) the tax reference number of that person,
- (c) the name and address of the person to whom the distribution was made,
- (d) the amount of the distribution, and

(e) the tax which the qualifying fund manager is required to account for in relation to that distribution (hereafter in this section referred to as 'the appropriate tax').

(2) The appropriate tax in relation to a distribution 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 qualifying fund manager to the Collector-General, and the appropriate tax so due shall be payable by the qualifying fund manager without the making of an assessment; but appropriate tax which has become so due may be assessed on the qualifying fund manager (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.

(3) Where it appears to the inspector that there is any amount of appropriate tax in relation to a distribution 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 qualifying fund manager to the best of his or her judgement, and any amount of appropriate tax in relation to a distribution 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.

(4) Where any item has been incorrectly included in a return as a distribution, 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 qualifying fund manager or any other person, are in so far as possible the same as they would have been if the item had not been so included.

(5) (a) Any appropriate tax assessed on a qualifying fund manager under this Chapter shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (1))

subject to any appeal against the assessment, but no such appeal shall affect the date when any amount is due under subsection (1).

(b) On the determination of an appeal against an assessment under this section, any appropriate tax overpaid shall be repaid.

(6) (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 payable in accordance with this Chapter without the making of an assessment 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 section, section 1080 shall apply as if subsection

(1)(b) of that section were deleted.

(7) Every return shall be in a form prescribed or authorised by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

(8) (a) A qualifying fund manager shall, on or before the specified return date for the chargeable period, within the meaning of section 950, prepare and deliver to the appropriate inspector, within the meaning of that section, a return in relation to each approved retirement fund held by that fund holder at any time during the year of assessment.

(b) The return under paragraph (a) shall, in relation to each approved retirement fund, contain—

(i) the name, address and tax reference number of the individual beneficially entitled to the assets in the fund,

(ii) details of any income, profits and gains, and any chargeable gains derived from assets held in the fund and of any tax deducted from income, profits or gains received,

(iii) details of any distributions made out of the assets held in the approved retirement fund, and

(iv) such further details as the Revenue Commissioners may reasonably require for the purposes of this section.”,

(iv) in section 785, by the substitution in paragraph (b) of subsection (1) and in paragraph (b) of subsection (2) of “75 years” for “70 years (or any greater age approved under section 784(3)(d))”,

(v) in section 786, by the substitution of the following subsection for subsection (1):

[1999.]

Finance Act, 1999.

[No. 2.]

“(1) The Revenue Commissioners shall not approve an annuity contract under section 784 unless the contract provides that the individual by whom it is made may require a sum representing the value of his or her accrued rights under the contract—

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(a) to be paid by the person with whom it is made to such other person as the individual may specify, and

(b) to be applied by such other person in payment of the premium or other consideration under an annuity contract made between the individual and that other person and approved by the Revenue Commissioners under that section,

if the first-mentioned contract is otherwise to be approved by the Revenue Commissioners under that section.”,

(vi) in section 787—

(I) by the insertion of the following subsections after subsection (2):

“(2A) Notwithstanding subsection (2), for the purposes of relief under this section an individual’s net relevant earnings shall not exceed £200,000 or such other amount as shall be specified in regulations made by the Minister for Finance.

(2B) Where regulations are proposed to be made under subsection (2A), a draft of the regulations shall be laid before Dáil Éireann and the regulations shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.”,

(II) by the substitution of the following subsections for subsection (8):

“(8) Subject to this section, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums and whether or not including premiums in respect of a contract approved under section 785) shall not be more than—

(a) in the case of an individual who at any time during the year of assessment was of the age of 30 years or over but had not attained the age of 40 years, 20 per cent,

(b) in the case of an individual who at any time during the year of assessment was of the age of 40 years or over but had not attained the age of 50 years, 25 per cent,

(c) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over or who for the year of assessment was a specified individual, 30 per cent, and

(d) in any other case, 15 per cent,

of the individual's net relevant earnings for that year, and the amount to be deducted shall to the greatest extent possible include qualifying premiums in respect of contracts approved under section 785.

(8A) For the purposes of this section, 'specified individual', in relation to a year of assessment, means an individual whose relevant earnings for the year of assessment were derived wholly or mainly from an occupation or profession specified in Schedule 23A.

(8B) The Minister for Finance may, after consultation with the Minister for Tourism, Sport and Recreation, by regulations extend or restrict the meaning of specified individual by adding or deleting one or more occupations or professions to or from, as the case may be, the list of occupations and professions specified in Schedule 23A.

(8C) Where regulations are proposed to be made under subsection (8B), a draft of the regulations shall be laid before Dáil Éireann and the regulations shall not be made until a resolution approving of the draft has been passed by Dáil Éireann."

and

(c) by the insertion of the following Schedule after Schedule 23:

"Section 787.

SCHEDULE 23A

Specified Occupations and Professions

Athlete
 Badminton Player
 Boxer
 Cyclist
 Footballer
 Golfer
 Jockey
 Motor Racing Driver
 Rugby Player
 Squash Player
 Swimmer
 Tennis Player"

(2) (a) *Paragraph (a) of subsection (1)* shall apply as respects any retirement benefits scheme (within the meaning of section 771 of the Principal Act) approved on or after the 6th day of April, 1999.

[1999.]

Finance Act, 1999.

[No. 2.]

- (b) *Paragraph (b)*, other than *subparagraph (vi)*, of *subsection (1)* shall apply as respects any annuity contract for the time being approved by the Revenue Commissioners under section 784 of the Principal Act entered into on or after the 6th day of April, 1999. Pt.1 S.19
- (c) *Subparagraph (vi)* of *paragraph (b)*, and *paragraph (c)*, of *subsection (1)* shall apply as respects the year of assessment 1999-2000 and subsequent years.
- (d) Notwithstanding any provision of Part 30 of the Principal Act, a retirement benefits scheme or an annuity contract which was approved by the Revenue Commissioners before the 6th day of April, 1999, shall not cease to be an approved scheme or contract, as the case may be, because the rules of the scheme or the terms of the contract are altered on or after that date to enable an individual to whom the scheme or the contract applies to exercise an option under subsection (3A) of section 772 or subsection (2A) of section 784 of the Principal Act, as may be appropriate, which that individual would be in a position to exercise in accordance with the terms of those subsections as regards a scheme or contract approved on or after the 6th day of April, 1999, and as regards such a scheme or contract, the provisions of this section shall apply as if the scheme or contract were one approved on or after that date.
- (e) Notwithstanding subsection (3A) of section 772 and subsection (2A) of section 784 of the Principal Act, where a pension or annuity first became payable on or after the 2nd day of December, 1998, and before the 6th day of April, 1999, *paragraph (d)* shall apply as if the references in the said subsections to the exercise of an option on or before the date on which a pension or an annuity would otherwise become payable were a reference to the exercise of an option within six months of the date on which the pension or annuity became payable.

20.—(1) Section 788(2) of the Principal Act is hereby amended— Purchased life annuities.

- (a) in paragraph (d), by the deletion of “or” after “section 787,”,
- (b) in paragraph (e), by the substitution of “capital), or” for “capital).”, and
- (c) by the insertion after paragraph (e) of the following paragraph:
- “(f) any annuity where the whole or part of the consideration for the grant of the annuity consisted of assets which, at the time of application of the said assets for the purchase of the annuity, were assets in an approved retirement fund, within the meaning of section 784A, or in an approved minimum retirement fund, within the meaning of section 784C.”.

Pt.1

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

21.—(1) Section 823 of the Principal Act is hereby amended—

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

“‘the specified amount’ in relation to an office or employment means an amount determined by the formula—

$$\frac{D \times E}{365}$$

where—

D is the number of qualifying days in relation to the office or employment in the year of assessment concerned, and

E is all the income, profits or gains from any office, employment or pension whether chargeable under Schedule D or E (including income from offices or employments the duties of which are performed in the State) of an individual in that year after deducting any contribution or qualifying premium in respect of which there is provision for a deduction under section 774(7) or 787 but excluding—

- (a) any expense to which section 118 applies,
- (b) any amount treated as emoluments of an employment under section 121(2)(b)(ii) by virtue of a car being made available by reason of the employment,
- (c) any sum treated for the purposes of section 112 as a perquisite of an office or employment by virtue of section 122,
- (d) any payment to which section 123 applies,
- (e) any sum deemed to be profits or gains arising or accruing from an office or employment by virtue of section 127(2), or
- (f) any gain to which section 128 applies.”,

and

(b) in subsection (3), by the insertion of the following after “the specified amount”:

“in relation to that office or employment or the amount of the income, profits or gains whichever is the lesser”.

(2) This section shall apply—

- (a) as respects the year of assessment 1999-2000 and subsequent years of assessment, and
- (b) as respects the year of assessment 1998-99 to the extent that the income, profits or gains to be included in computing the specified amount accrues to an individual on or after the 10th day of March, 1999.

[1999.]

Finance Act, 1999.

[No. 2.]

22.—Section 869 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (3):

Pt.1

Amendment of section 869 (delivery, service and evidence of notices and forms) of Principal Act.

“(3) Prima facie evidence of any notice given or served under the Tax Acts or the Capital Gains Tax Acts by the Revenue Commissioners or an inspector or other officer of the Revenue Commissioners may be given in any proceedings by the production of a document purporting—

- (a) to be a copy of the notice, or
- (b) if the details specified in the notice are contained in an electronic, photographic or other record maintained by the Revenue Commissioners, to reproduce those details in so far as they relate to the said notice,

and it shall not be necessary to prove the official positions or position of the persons or person by whom the notice purports to be given or served or, where it is signed, the signatures or signature or that the persons or person signing and giving or serving it were or was authorised to do so.”.

23.—Section 961 of the Principal Act is hereby amended, as on and from the 6th day of April, 1999, by the substitution of the following subsection for subsection (2):

Amendment of section 961 (issue of demand notes and receipts) of Principal Act.

“(2) On payment of income tax, the Collector-General shall furnish the person concerned with a receipt in respect of that payment; such a receipt shall consist of whichever of the following the Collector-General considers appropriate, namely—

- (a) a separate receipt on the prescribed form in respect of each such payment, or
- (b) a receipt on the prescribed form in respect of all such payments that have been made within a period specified in the receipt.”.

24.—Chapter 4 of Part 42 of the Principal Act is hereby amended, as on and from the 6th day of April, 1999, by the insertion of the following section after section 990:

Amendment of Chapter 4 (collection and recovery of income tax on certain emoluments (PAYE system)) of Part 42 of Principal Act.

“Generation of estimates by electronic, photographic or other process.

990A.—For the purposes of this Chapter—

- (a) where the inspector, any officer of the Revenue Commissioners nominated by them for the purposes of section 989 or 990 (in this section referred to as ‘the nominated officer’) or any other officer of the Revenue Commissioners acting with the knowledge of the inspector or the nominated officer causes, for the purposes of section 989 or 990, to be issued, manually or by any electronic, photographic or other process, and to be served, a notice bearing the name of the inspector or the nominated officer, the estimate to which that notice relates shall be deemed—

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(i) if that notice was issued for the purposes of section 989, to have been made by the nominated officer, and

(ii) if that notice was issued for the purposes of section 990, to have been made by the inspector or the nominated officer, as the case may be, to the best of his or her opinion,

and

(b) the provisions of section 928 shall, subject to any necessary modifications, apply in relation to estimates made in accordance with the provisions of section 990 as they apply in relation to assessments to income tax.”.

Amendment of section 987 (penalties for breach of regulations) of Principal Act.

25.—Section 987 of the Principal Act is hereby amended—

(a) by the substitution of the following subsection for subsection (1)—

“(1) Where any person does not comply with any provision of regulations under this Chapter requiring that person to send any return, statement, notification or certificate, other than the end of year return required under Regulation 35 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960), or to remit income tax to the Collector-General or fails to make any deduction or repayment in accordance with any regulation made pursuant to section 986(1)(g), that person shall be liable to a penalty of £1,200.”.

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

“(1A) Where any person fails to send an end of year return to the Collector-General in accordance with Regulation 35 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960), that person shall be liable to a penalty of £500 for each month or part of a month during which the said return remains outstanding, subject to a maximum penalty of £2,000.”.

and

(c) in subsection (2) by the substitution of “subsection (1) or (1A)” for “subsection (1)”.

Relief for fees paid to publicly funded colleges in the European Union for full-time third level education.

26.—The Principal Act is hereby amended—

(a) in Chapter 1 of Part 15, by the insertion in Part 2 of the Table to section 458 of “Section 474A” after “Section 474”.

(b) in Chapter 2 of Part 15, by the insertion of the following section after section 474: Pt.1 S.26

“Relief for fees paid to publicly funded colleges in the European Union for full-time third level education.

474A.—(1) In this section—

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

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

‘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;

‘the 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) which 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 course’ means a full-time undergraduate course of study in a qualifying college which is of at least 2 academic years’ duration, other than a course of study in medicine, dentistry, veterinary medicine or in teacher training;

‘qualifying fees’, in relation to a qualifying course and an academic year, means 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 qualifying 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 a qualifying 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) 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.

(4) Any claim for relief under this section made by an individual 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.

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

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

the Revenue Commissioners may consult with the Minister.”,

and

(c) in Chapter 1 of Part 44 by the insertion in section 1024(2)(a)(ix) of “474A,” after “474.”

Chapter 3

Dividend withholding tax

27.—The Principal Act is hereby amended—

(a) in Part 6, by the insertion of the following Chapter after Chapter 8:

“Chapter 8A

Dividend withholding tax

Interpretation.

172A.—(1) (a) In this Chapter and in Schedule 2A—

‘American depositary receipt’ has the same meaning as in section 207 of the Finance Act, 1992;

Dividend withholding tax.

‘auditor’, in relation to a company, means the person or persons appointed as auditor of the company for the purposes of the Companies Acts, 1963 to 1990, or under the law of the territory in which the company is incorporated and which corresponds to those Acts; Pt.1 S.27

‘authorised withholding agent’, in relation to a relevant distribution, has the meaning assigned to it by section 172G;

‘collective investment undertaking’ means—

- (i) a collective investment undertaking within the meaning of section 734, or
- (ii) an undertaking for collective investment within the meaning of section 738,

not being an offshore fund within the meaning of section 743;

‘dividend withholding tax’, in relation to a relevant distribution, means a sum representing income tax on the amount of the relevant distribution at the standard rate in force at the time the relevant distribution is made;

‘excluded person’, in relation to a relevant distribution, has the meaning assigned to it by section 172C(2);

‘intermediary’ means a person who carries on a trade which consists of or includes—

- (i) the receipt of relevant distributions from a company or companies resident in the State, or
- (ii) the receipt of amounts or other assets representing such distributions from another

intermediary or intermediaries,

on behalf of other persons;

‘non-liable person’, in relation to a relevant distribution, means the person beneficially entitled to the relevant distribution, being an excluded person or a qualifying non-resident person;

‘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 employee share ownership trust’ means an employee share ownership trust which the Revenue Commissioners have approved of as a qualifying employee share ownership trust in accordance with Schedule 12 and which approval has not been withdrawn;

‘qualifying intermediary’, in relation to a relevant distribution, has the meaning assigned to it by section 172E;

‘qualifying non-resident person’, in relation to a relevant distribution, has the meaning assigned to it by section 172D(3);

‘relevant distribution’ means—

- (i) a distribution within the meaning of paragraph 1 of Schedule F in section 20(1), other than such a distribution made to a Minister of the Government in his or her capacity as such Minister, and
- (ii) any amount assessable and chargeable to tax under Case IV of Schedule D by virtue of section 816;

‘relevant person’, in relation to a relevant distribution, means—

- (i) where the relevant distribution is made by a company directly to the person beneficially entitled to the distribution, the company making the relevant distribution, and
- (ii) where the relevant distribution is not made by the company directly to the person beneficially entitled to the relevant distribution but is made to that person through one or more than one qualifying intermediary, the qualifying intermediary from whom the relevant distribution, or an amount or other asset representing the relevant distribution, is receivable by the person beneficially entitled to the distribution;

‘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 having the force of law by virtue of section 826 have been made;

‘specified person’, in relation to a relevant distribution, means the person to whom the relevant distribution is made, whether or not that person is beneficially entitled to the relevant distribution;

‘tax’, in relation to a relevant territory, means any tax imposed in that territory

which corresponds to income tax or corporation tax in the State;

‘tax reference number’ has the same meaning as in section 885.

- (b) In this Chapter and in Schedule 2A, references to the making of a relevant distribution by a company, or to a relevant distribution to be made by a company, or to the receipt of a relevant distribution from a company do not include, respectively, references to the making of a relevant distribution by a collective investment undertaking, or to a relevant distribution to be made by a collective investment undertaking, or to the receipt of a relevant distribution from a collective investment undertaking.

(2) For the purposes of this Chapter, the amount of a relevant distribution shall be an amount equal to—

- (a) where the relevant distribution consists of a payment in cash, the amount of the payment,
- (b) where the relevant distribution consists of an amount which is treated under section 816 as a distribution made by a company, the amount so treated,
- (c) where the relevant distribution consists of an amount which is assessable and chargeable to tax under Case IV of Schedule D by virtue of section 816, the amount so assessable and chargeable, and
- (d) where the relevant distribution consists of a non-cash distribution, not being a relevant distribution to which paragraph (b) or (c) applies, an amount which is equal to the value of the distribution,

and a reference in this Chapter to the amount of a relevant distribution shall be construed as a reference to the amount which would be the amount of the relevant distribution if no dividend withholding tax were to be deducted from the relevant distribution.

(3) Schedule 2A shall have effect for the purposes of supplementing this Chapter.

[1999.]

Finance Act, 1999.

[No. 2.]

Dividend
withholding tax on
relevant
distributions.

172B.—(1) Except where otherwise provided by this Chapter, where, on or after the 6th day of April, 1999, a company resident in the State makes a relevant distribution to a specified person—

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- (a) the company shall deduct out of the amount of the relevant distribution dividend withholding tax in relation to the relevant distribution,
- (b) the specified person shall allow such deduction on the receipt of the residue of the relevant distribution, and
- (c) the company 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 specified person.

(2) Except where otherwise provided by this Chapter, where, at any time on or after the 6th day of April, 1999, a company resident in the State makes a relevant distribution to a specified person and the relevant distribution consists of an amount referred to in paragraph (b) or (c) of section 172A(2) (being an amount equal to the amount which the specified person would have received if that person had received the relevant distribution in cash instead of in the form of additional share capital of the company), subsection (1) shall not apply, but—

- (a) the company shall reduce the amount of the additional share capital to be issued to the specified person by such amount as will secure that the value at that time of the additional share capital issued to the specified person does not exceed an amount equal to the amount which the person would have received, after deduction of dividend withholding tax, if the person had received the relevant distribution in cash instead of in the form of additional share capital of the company,
- (b) the specified person shall allow such reduction on the receipt of the residue of the additional share capital,
- (c) the company shall be acquitted and discharged of so much money as is represented by the reduction in

the value of the additional share capital as if that amount of money had actually been paid to the specified person,

- (d) the company shall be liable to pay to the Collector-General an amount (which shall be treated for the purposes of this Chapter as if it were a deduction of dividend withholding tax in relation to the relevant distribution) equal to the dividend withholding tax which, but for this subsection, would have been required to be deducted from the relevant distribution, and
- (e) the company shall be liable to pay that amount in the same manner in all respects as if it were the dividend withholding tax which, but for this subsection, would have been required to be deducted from the relevant distribution.

(3) Except where otherwise provided by this Chapter, where, on or after the 6th day of April, 1999, a company resident in the State makes a relevant distribution to a specified person and the relevant distribution consists of a non-cash distribution, not being a relevant distribution to which subsection (2) applies, subsection (1) shall not apply, but the company—

- (a) shall be liable to pay to the Collector-General an amount (which shall be treated for the purposes of this Chapter as if it were a deduction of dividend withholding tax in relation to the relevant distribution) equal to the dividend withholding tax which, but for this subsection, would have been required to be deducted from the amount of the relevant distribution,
- (b) shall be liable to pay that amount in the same manner in all respects as if it were the dividend withholding tax which, but for this subsection, would have been required to be deducted from the relevant distribution, and
- (c) shall be entitled to recover a sum equal to that amount from the specified person as a simple contract debt in any court of competent jurisdiction.

(4) A company resident in the State shall treat every relevant distribution to be made by it on or after the 6th day of April, 1999, to a specified person as a distribution to which this section applies, but, where the company has satisfied itself that a relevant distribution to be made by it to a specified person is not, by virtue of the following provisions of this Chapter, a distribution to which this section applies, the company shall, subject to those provisions, be entitled to so treat relevant distributions to be made by it to the specified person until such time as it is in possession of information which can reasonably be taken to indicate that a relevant distribution to be made to the specified person is or may be a relevant distribution to which this section applies.

(5) The provisions of the Tax Acts relating to the computation of profits or gains shall not be affected by the deduction of dividend withholding tax in relation to relevant distributions in accordance with this section and, accordingly, the amount of such relevant distributions shall, subject to section 129, be taken into account in computing for tax purposes the profits or gains of persons beneficially entitled to such distributions.

(6) Subject to section 831(6), this section shall not apply where a relevant distribution is made to a parent company (within the meaning of section 831) which is not resident in the State by its subsidiary (within the meaning of that section) which is a company resident in the State.

Exemption from dividend withholding tax for certain persons.

172C.—(1) Section 172B shall not apply where a company resident in the State makes a relevant distribution to an excluded person.

(2) For the purposes of this Chapter, a person shall be an excluded person in relation to a relevant distribution if the person is beneficially entitled to the relevant distribution and is—

- (a) a company resident in the State which has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 3 of Schedule 2A,
- (b) a pension scheme which has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 4 of Schedule 2A,

- (c) a qualifying employee share ownership trust which has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 5 of Schedule 2A,
- (d) a collective investment undertaking which has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 6 of Schedule 2A, or
- (e) a person who—
 - (i) is entitled to exemption from income tax under Schedule F in respect of the relevant distribution by virtue of section 207(1)(b), and
 - (ii) has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 7 of Schedule 2A.

Exemption from dividend withholding tax for certain non-resident persons.

172D.—(1) Notwithstanding any other provision of this Chapter, section 172B shall not apply where, in the period from the 6th day of April, 1999, to the 5th day of April, 2000, a company resident in the State makes a relevant distribution to a specified person, being—

- (a) a person whose address on the share register of the company is located in a relevant territory,
- (b) a company which is not resident in the State and to which subparagraph (i) or (ii) of subsection (3)(b) applies and which before the making of the relevant distribution has given to the company making the relevant distribution a certificate referred to in paragraph 9(f) of Schedule 2A, or
- (c) an intermediary (in this paragraph referred to as ‘the first-mentioned intermediary’) resident in the State which before the making of the relevant distribution advises the company making the relevant distribution that the relevant distribution is to be received by the first-mentioned intermediary for the benefit of—

- (i) a person whose address in the records of the first-mentioned intermediary is located in a relevant territory,
- (ii) a company which is not resident in the State and to which subparagraph (i) or (ii) of subsection (3)(b) applies and which before the making of the relevant distribution has given the first-mentioned intermediary a certificate referred to in paragraph 9(f) of Schedule 2A, or
- (iii) another intermediary (in this paragraph referred to as 'the second-mentioned intermediary') who has advised the first-mentioned intermediary that the relevant distribution, or an amount or other asset representing the relevant distribution, to be given to the second-mentioned intermediary by the first-mentioned intermediary is to be received by the second-mentioned intermediary for the benefit of—
 - (I) a person whose address in the records of the second-mentioned intermediary is located in a relevant territory, or
 - (II) a company which is not resident in the State and to which subparagraph (i) or (ii) of subsection (3)(b) applies and which before the making of the relevant distribution has given the second-mentioned intermediary a certificate referred to in paragraph 9(f) of Schedule 2A.

(2) Section 172B shall not apply where, on or after the 6th day of April, 2000, a company resident in the State makes a relevant distribution to a qualifying non-resident person.

(3) For the purposes of this Chapter, a person shall be a qualifying non-resident person in relation to a relevant distribution if the

person is beneficially entitled to the relevant distribution and is—

(a) a person, not being a company, who—

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

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

(iii) has made a declaration to the relevant person in relation to the relevant distribution in accordance with paragraph 8 of Schedule 2A and in relation to which declaration the certificate referred to in 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,

or

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

(i) 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 such a 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

(ii) the principal class of the shares of—

(I) the company, or

(II) another company of which the company is a 75 per cent subsidiary,

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, Pt.1 S.27

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 the certificates referred to in subparagraphs (f) and (g) of that paragraph are current certificates (within the meaning of paragraph 2 of that Schedule) at the time of the making of the relevant distribution.

(4) 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—

- (a) in so far as the first mention of 'control' in subsection (3)(b)(i) is concerned, 'persons who, by virtue of the law of a relevant territory (within the meaning assigned by section 172A), are resident for the purposes of tax in such a relevant territory (within that meaning)', and
- (b) in so far as the second mention of 'control' in subsection (3)(b)(i) is concerned, 'persons who are not resident for the purposes of tax in a relevant territory (within that meaning)'.

(5) For the purposes of subsection (3)(b)(ii)(II), sections 412 to 418 shall apply as those sections would apply for the purposes of Chapter 5 of Part 12 if subparagraph (iii) of section 411(1)(c) were deleted.

Qualifying intermediaries.

172E.—(1) Subject to section 172F(6), section 172B shall not apply where a company resident in the State makes a relevant distribution through one or more than one qualifying intermediary for the benefit of a person beneficially entitled to the relevant distribution who is a non-liable person in relation to the relevant distribution.

(2) For the purposes of this Chapter, a person shall be a qualifying intermediary in relation to relevant distributions to be made to the person by a company resident in the State, and in relation to amounts or other assets representing such distributions to be

paid or given to the person by another qualifying intermediary, if the person is an intermediary who—

- (a) is resident in the State or who, by virtue of the law of a relevant territory, is resident for the purposes of tax in the relevant territory,
- (b) has entered into a qualifying intermediary agreement with the Revenue Commissioners, and
- (c) has been authorised by the Revenue Commissioners, by way of notice in writing, to be a qualifying intermediary in relation to relevant distributions to be made to the person by companies resident in the State, and in relation to amounts or other assets representing such distributions to be paid or given to the person by another qualifying intermediary, for the benefit of other persons who are beneficially entitled to the relevant distributions, which authorisation has not been revoked under subsection (6).

(3) A qualifying intermediary agreement shall be an agreement entered into between the Revenue Commissioners and an intermediary under the terms of which the intermediary undertakes—

- (a) to accept any declarations and notifications made or given to the intermediary in accordance with this Chapter and to retain such declarations and notifications for a period of not less than 6 years,
- (b) to make all such declarations and notifications available for inspection by the Revenue Commissioners when requested to do so by notice in writing from the Commissioners,
- (c) to inform the Revenue Commissioners if the intermediary has reasonable grounds to believe that any such declaration or notification made or given by any person was not, or may not have been, a true and correct declaration or notification at the time of the making of the declaration or the giving of the notification, as the case may be,

- (d) to inform the Revenue Commissioners if the intermediary has at any time reasonable grounds to believe that any such declaration made by any person would not, or might not, be a true and correct declaration if made at that time,
- (e) to operate the provisions of section 172F in a correct and efficient manner and provide to the Revenue Commissioners the return referred to in subsection (7) of that section within the time specified in that behalf in subsection (8) of that section,
- (f) to provide to the Revenue Commissioners an annual report on the intermediary's compliance with the agreement, 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,
- (g) if required by the Revenue Commissioners, to give a bond or guarantee to the Revenue Commissioners which is sufficient to indemnify the Commissioners against any loss arising by virtue of the fraud or negligence of the intermediary in relation to the operation by the intermediary of the agreement and the provisions of this Chapter,
- (h) in the case where the intermediary is a depositary bank holding shares in trust for, or on behalf of, the holders of American depositary receipts—
- (i) if authorised to do so by the Revenue Commissioners, to operate the provisions of subsection (3)(d) of section 172F, and
 - (ii) to comply with any conditions in relation to such operation as may be specified in the agreement,

and

- (i) to allow for the verification by the Revenue Commissioners of the intermediary's compliance with the agreement and the provisions of this Chapter in any other manner considered necessary by the Commissioners.

(4) The Revenue Commissioners shall not authorise an intermediary to be a qualifying intermediary unless the intermediary—

- (a) is a company which holds 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 relevant territory which corresponds to that section,
- (b) is a person who is wholly owned by a company or person referred to in paragraph (a),
- (c) is a member firm of the Irish Stock Exchange Limited or of a recognised stock exchange in a relevant territory, or
- (d) is in the opinion of the Revenue Commissioners a person suitable to be a qualifying intermediary for the purposes of this Chapter.

(5) The Revenue Commissioners shall maintain a list of intermediaries who have been authorised by the Commissioners to be qualifying intermediaries for the purposes of this Chapter and whose authorisations have not been revoked under subsection (6), and, notwithstanding any obligations as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise, the Revenue Commissioners may make available to any person the name and address of any such qualifying intermediary.

(6) Where, at any time after the Revenue Commissioners have authorised an intermediary to be a qualifying intermediary for the purposes of this Chapter, the Commissioners are satisfied that the intermediary—

- (a) has failed to comply with the agreement referred to in subsection (3) or the provisions of this Chapter, or

(b) is otherwise unsuitable to be a Pt.1 S.27 qualifying intermediary,

they may, by notice in writing served by registered post on the intermediary, revoke the authorisation with effect from such date as may be specified in the notice.

(7) Notice of a revocation under subsection (6) shall be published as soon as may be in *Iris Oifigiúil*.

Obligations of qualifying intermediary in relation to relevant distributions.

172F.—(1) A qualifying intermediary which is to receive on behalf of other persons—

- (a) any relevant distributions to be made by any company resident in the State, or
- (b) from another qualifying intermediary amounts or other assets (in this section referred to as ‘payments’) representing such distributions,

shall create and maintain, in relation to such distributions and payments, 2 separate and distinct categories to be known, respectively, as the ‘Exempt Fund’ and the ‘Liable Fund’, and the qualifying intermediary shall notify that company or that other qualifying intermediary, as the case may be, by way of notice in writing, whether the relevant distributions to be made to it by that company, or, as the case may be, the payments representing such distributions to be made to it by that other qualifying intermediary, are to be received by it for the benefit of a person included in the Exempt Fund or a person included in the Liable Fund.

(2) Subject to subsections (3) and (5), a qualifying intermediary shall include in its Exempt Fund in relation to such distributions and payments only those persons on whose behalf it is to receive such distributions or payments, being—

- (a) persons beneficially entitled to such distributions or payments who are non-liable persons in relation to such distributions, and
- (b) any further qualifying intermediary to whom such distributions or payments (or amounts or other assets representing such distributions or payments) are to be given by the qualifying intermediary and are to be received

by that further qualifying intermediary for the benefit of persons included in that further qualifying intermediary's Exempt Fund.

(3) (a) A qualifying intermediary shall not include a person referred to in subsection (2)(a) in its Exempt Fund unless it has received from that person—

(i) a declaration made by that person in accordance with section 172C(2), or

(ii) a declaration made by that person in accordance with section 172D(3) in relation to which—

(I) the certificate referred to in paragraph 8(f) of Schedule 2A is a current certificate (within the meaning of paragraph 2 of that Schedule), or

(II) the certificates referred to in subparagraphs (f) and (g) of paragraph 9 of that Schedule are current certificates (within the meaning of paragraph 2 of that Schedule),

as the case may be, at the time of the making of the relevant distributions.

(b) A qualifying intermediary shall not include a further qualifying intermediary referred to in subsection (2)(b) in its Exempt Fund unless the qualifying intermediary has received from that further qualifying intermediary a notification in writing given to the qualifying intermediary by that further qualifying intermediary in accordance with subsection (1) to the effect that the relevant distributions made by the company resident in the State, or, as the case may be, the payments representing such distributions, which are to be given by the qualifying intermediary to that further qualifying intermediary are to be received by that further qualifying intermediary for the benefit of a person included in

that further qualifying intermediary's Exempt Fund. Pt.1 S.27

- (c) Notwithstanding paragraphs (a) and (b), a qualifying intermediary, being a depository bank holding shares in trust for, or on behalf of, the holders of American depository receipts, shall, if provided for in the qualifying intermediary agreement and subject to any conditions specified in that agreement, operate the provisions of paragraph (d).
- (d) Where this paragraph applies in relation to a qualifying intermediary, the qualifying intermediary shall include in its Exempt Fund—
- (i) any person on whose behalf it is to receive any relevant distributions to be made by a company resident in the State, or on whose behalf it is to receive from another qualifying intermediary payments representing such distributions, being a person who is beneficially entitled to such distributions or payments, who is the holder of an American depository receipt and whose address on the qualifying intermediary's register of depository receipts is located in the United States of America, and
- (ii) any specified intermediary to which such distributions or payments (or amounts or other assets representing such distributions or payments) are to be given by the qualifying intermediary and are to be received by that specified intermediary for the benefit of—
- (I) persons who are beneficially entitled to such distributions or payments, who are the holders of American depository receipts, whose address on that specified intermediary's register of depository receipts is located in the

United States of America, and who in accordance with paragraph (e)(iii)(I) are to be included in that specified intermediary's Exempt Fund, or

- (II) any further specified intermediary to which such distributions or payments (or amounts or other assets representing such distributions or payments) are to be given by the first-mentioned specified intermediary and are to be received by that further specified intermediary for the benefit of persons who in accordance with clauses (I) and (II) of paragraph (e)(iii) are to be included in that further specified intermediary's Exempt Fund.

(e) For the purposes of paragraph (d), an intermediary shall be treated as a specified intermediary if the intermediary—

- (i) is not a qualifying intermediary but is a person referred to in paragraph (a), (b), (c) or (d) of section 172E(4) who is operating as an intermediary in an establishment situated in the United States of America,
- (ii) creates and maintains, in relation to such distributions or payments (or amounts or other assets representing such distributions or payments) to be received by it on behalf of other persons from a qualifying intermediary or another specified intermediary, an Exempt Fund and a Liable Fund in accordance with subsections (1) and (5), but subject to subparagraphs (iii) and (iv), as if it were a qualifying intermediary,

(iii) includes in its Exempt Fund Pt.1 S.27

in relation to such distributions or payments (or amounts or other assets representing such distributions or payments), only—

(I) those persons who are beneficially entitled to such distributions or payments, being persons who are the holders of American depositary receipts and whose address on its register of depositary receipts is located in the United States of America, and

(II) any further specified intermediary to which such distributions or payments (or amounts or other assets representing such distributions or payments) are to be given by the intermediary and are to be received by that further specified intermediary for the benefit of persons who in accordance with this subparagraph are to be included in that further specified intermediary's Exempt Fund,

(iv) includes in its Liable Fund in relation to such distributions or payments (or amounts or other assets representing such distributions or payments), all other persons (being persons who are the holders of American depositary receipts) on whose behalf such distributions or payments (or amounts or other assets representing such distributions or payments) are to be received by it from a qualifying intermediary or a further specified intermediary, other than those persons included in its Exempt Fund,

(v) notifies, by way of notice in writing given in accordance with subsection (1), the qualifying intermediary or, as the case may be, the

further specified intermediary from whom it is to receive, on behalf of other persons, such distributions or payments (or amounts or other assets representing such distributions or payments), whether such distributions or payments (or amounts or other assets representing such distributions or payments) are to be so received by it for the benefit of persons included in its Exempt Fund or persons included in its Liable Fund,

- (vi) notifies the qualifying intermediary or, as the case may be, the further specified intermediary, by way of notice in writing or in electronic format, at the time it gives such distributions or payments (or amounts or other assets representing such distributions or payments) to other persons, of the name and address of each such person, and
- (vii) agrees that the information given in accordance with subparagraph (vi) to the qualifying intermediary or, as the case may be, the further specified intermediary shall be returned by the qualifying intermediary to the Revenue Commissioners in accordance with subsection (7)(f).

(f) Where, by virtue of the preceding provisions of this subsection, any person, being a person who, apart from this paragraph, would not be a non-liable person in relation to the distributions or payments (or amounts or other assets representing such distributions or payments) to be received on that person's behalf by a qualifying intermediary or a specified intermediary, is included in the Exempt Fund of the qualifying intermediary or, as the case may be, of the specified intermediary, that person shall, notwithstanding any other provision of this Chapter, be treated as a non-liable person in relation to such distributions.

(4) Subject to subsection (5), a qualifying intermediary shall include in its Liable Fund in relation to relevant distributions to be made to it by a company resident in the State and payments representing such distributions to be made to it by another qualifying intermediary all persons on whose behalf the qualifying intermediary is to receive such distributions or payments, other than those persons included in its Exempt Fund in relation to such distributions and payments.

(5) A qualifying intermediary shall update its Exempt Fund and Liable Fund, in relation to relevant distributions to be made to it by a company resident in the State and payments representing such distributions to be made to it by another qualifying intermediary, as often as may be necessary to ensure that the provisions of section 172E(1) and subsections (2) to (4) of this section are complied with, and shall notify the company or, as the case may be, that other qualifying intermediary, by way of notice in writing, of all such updates.

(6) Where at any time a company resident in the State makes a relevant distribution to a qualifying intermediary and, apart from this subsection, the relevant distribution would be treated as being made to the qualifying intermediary for the benefit of a person beneficially entitled to the relevant distribution who is a non-liable person in relation to that distribution, the distribution shall be treated as if it were not made to the qualifying intermediary for the benefit of such a person unless, at or before that time, the qualifying intermediary has notified the company in accordance with subsection (1) or (5), as the case may be, that the relevant distribution is to be received by the qualifying intermediary for the benefit of a person included in the qualifying intermediary's Exempt Fund in relation to relevant distributions to be made to the qualifying intermediary by the company, and accordingly, in the absence of such a notification, section 172B shall apply in relation to the relevant distribution.

(7) A qualifying intermediary shall, as respects each year of assessment (being the year of assessment 1999-2000 or any subsequent year of assessment) make a return to the Revenue Commissioners showing—

(a) the name and address of the qualifying intermediary,

(b) 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,
- (c) the amount of each such relevant distribution,
- (d) 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,
- (e) the name and address of each person referred to in paragraph (d) in respect of whom a declaration under section 172C(2) or 172D(3) has been received by the qualifying intermediary, and
- (f) where subsection (3)(d) applies in relation to the qualifying intermediary, the information given to the qualifying intermediary by specified intermediaries in accordance with subsection (3)(e)(vi).

(8) Subject to subsection (9), every return by a qualifying intermediary under subsection (7) shall be made, not later than the 21st day of May following the year of assessment to which the return refers, in an electronic format approved by the Revenue Commissioners and shall be accompanied by a declaration made by the qualifying intermediary, 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 a qualifying intermediary 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

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in writing in a form prescribed or authorised by the Revenue Commissioners and shall be accompanied by a declaration made by the qualifying intermediary, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that the return is correct and complete. Pt.1 S.27

Authorised
withholding agent.

172G.—(1) Subject to section 172H, section 172B shall not apply where a company resident in the State makes a relevant distribution to an authorised withholding agent for the benefit of a person beneficially entitled to the relevant distribution, not being the authorised withholding agent.

(2) For the purposes of this Chapter, a person shall be an authorised withholding agent in relation to relevant distributions to be made to the person by a company resident in the State if the person is an intermediary who—

- (a) (i) is resident in the State, or
- (ii) if not resident in the State, is, by virtue of the law of a relevant territory, resident for the purposes of tax in the relevant territory, and carries on through a branch or agency in the State a trade which consists of or includes the receipt of relevant distributions from a company or companies resident in the State on behalf of other persons,
- (b) has entered into an authorised withholding agent agreement with the Revenue Commissioners, and
- (c) has been authorised by the Revenue Commissioners, by way of notice in writing, to be an authorised withholding agent in relation to relevant distributions to be made to the person by companies resident in the State for the benefit of other persons who are beneficially entitled to the relevant distributions, which authorisation has not been revoked under subsection (6).

(3) An authorised withholding agent agreement shall be an agreement entered into between the Revenue Commissioners and an intermediary under the terms of which the intermediary undertakes—

- (a) to accept any declarations and notifications made or given to the intermediary in accordance with this Chapter and to retain such declarations and notifications for a period of not less than 6 years,
- (b) to make all such declarations and notifications available for inspection by the Revenue Commissioners when requested to do so by notice in writing from the Commissioners,
- (c) to inform the Revenue Commissioners if the intermediary has reasonable grounds to believe that any such declaration or notification made or given by any person was not, or may not have been, a true and correct declaration or notification at the time of the making of the declaration or the giving of the notification, as the case may be,
- (d) to inform the Revenue Commissioners if the intermediary has at any time reasonable grounds to believe that any such declaration made by any person would not, or might not, be a true and correct declaration if made at that time,
- (e) to operate the provisions of section 172H in a correct and efficient manner,
- (f) to provide to the Collector-General the return referred to in section 172K(1), and to pay to the Collector-General any dividend withholding tax required to be included in such a return, within the time specified in that behalf in that section,
- (g) to provide to the Revenue Commissioners an annual report on the intermediary's compliance with the agreement, 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 Pt.1 S.27
the company,

and

(h) to allow for the verification by the Revenue Commissioners of the intermediary's compliance with the agreement and the provisions of this Chapter in any other manner considered necessary by the Commissioners.

(4) The Revenue Commissioners shall not authorise an intermediary to be an authorised withholding agent unless the intermediary—

(a) is a company which holds 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 relevant territory which corresponds to that section,

(b) is a person who is wholly owned by a company or person referred to in paragraph (a),

(c) is a member of the Irish Stock Exchange Limited or of a recognised stock exchange in a relevant territory, or

(d) is in the opinion of the Revenue Commissioners a person suitable to be an authorised withholding agent for the purposes of this Chapter.

(5) The Revenue Commissioners shall maintain a list of intermediaries who have been authorised by the Commissioners to be authorised withholding agents for the purposes of this Chapter and whose authorisations have not been revoked under subsection (6), and, notwithstanding any obligation as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise, the Revenue Commissioners may make available to any person the name and address of any such authorised withholding agent.

(6) Where, at any time after the Revenue Commissioners have authorised an intermediary to be an authorised withholding agent for the purposes of this Chapter, the Commissioners are satisfied that the intermediary—

(a) has failed to comply with the agreement referred to in subsection (3) or the provisions of this Chapter, or

(b) is otherwise unsuitable to be an authorised withholding agent,

they may, by notice in writing served by registered post on the intermediary, revoke the authorisation with effect from such date as may be specified in the notice.

(7) Notice of a revocation under subsection (6) shall be published as soon as may be in *Iris Oifigiúil*.

Obligations of authorised withholding agent in relation to relevant distributions.

172H.—(1) An authorised withholding agent which is to receive, on behalf of other persons, any relevant distributions to be made to it by any company resident in the State shall notify that company, by way of notice in writing, that it is an authorised withholding agent in relation to those distributions.

(2) Where an authorised withholding agent receives, on behalf of another person, a relevant distribution from a company resident in the State, and gives that distribution, or an amount or other asset representing that distribution, to that other person, this Chapter shall apply, with any necessary modifications, as if—

(a) the authorised withholding agent were the company which made the distribution, and

(b) the giving by the authorised withholding agent of the relevant distribution, or an amount or other asset representing that distribution, to that other person were the making of the relevant distribution by the authorised withholding agent to that other person at the time of the making of the relevant distribution to the authorised withholding agent by the company,

and accordingly, except where otherwise provided by this Chapter, section 172B shall apply in relation to that relevant distribution and the authorised withholding agent shall be obliged to pay and account for the dividend withholding tax (if any) due in relation to the relevant distribution.

(3) Where at any time a company resident in the State makes a relevant distribution to a person and, apart from this subsection, the

relevant distribution would be treated as being made to an authorised withholding agent for the benefit of another person, the distribution shall be treated as if it were not made to the authorised withholding agent for the benefit of that other person unless, at or before that time, the authorised withholding agent has notified the company in accordance with subsection (1) that it is an authorised withholding agent in relation to the relevant distribution, and accordingly, in the absence of such a notification, section 172B shall apply in relation to the relevant distribution.

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Statement to be given to recipients of relevant distributions.

172I.—(1) Every person (in this section referred to as ‘the payer’) who makes, or who (being an authorised withholding agent) is treated as making, a relevant distribution shall, at the time of the making of the relevant distribution or, in the case of an authorised withholding agent, at the time of the giving by the authorised withholding agent of the relevant distribution, or an amount or other asset representing that distribution, to another person, give the recipient of the relevant distribution or, as the case may be, that other person a statement in writing showing—

- (a) the name and address of the payer and, if the payer is not the company making the relevant distribution, the name and address of that company,
- (b) the name and address of the person to whom the relevant distribution is made,
- (c) the date the relevant distribution is made,
- (d) the amount of the relevant distribution, and
- (e) the amount of the dividend withholding tax (if any) deducted in relation to the relevant distribution.

(2) The requirements of subsection (1) shall be satisfied by the inclusion of the information referred to in that subsection in a statement in writing made in relation to the distribution in accordance with section 152(1).

(3) Where a person fails to comply with any of the provisions of subsection (1), subsection (2) of section 152 shall apply as it applies where a company fails to comply with

any of the provisions of subsection (1) of that section.

Credit for, or repayment of, dividend withholding tax borne.

172J.—(1) Where, in relation to any year of assessment, a person is within the charge to income tax and has borne dividend withholding tax in relation to a relevant distribution to which the person is beneficially entitled which tax is referable to that year of assessment, the person may claim to have that dividend withholding tax set against income tax chargeable for that year of assessment and, where that dividend withholding tax exceeds such income tax, to have the excess refunded to the person.

(2) Where, in relation to any year of assessment, a person is not within the charge to income tax and has borne dividend withholding tax in relation to a relevant distribution to which the person is beneficially entitled which tax is referable to that year of assessment, the person may claim to have the amount of that dividend withholding tax refunded to the person.

(3) Where a person has borne dividend withholding tax in relation to a relevant distribution to which the person is beneficially entitled, and the person—

- (a) is a non-liable person in relation to the relevant distribution, or
- (b) would have been a non-liable person in relation to the relevant distribution if the requirement for the person to make the appropriate declaration referred to in Schedule 2A had not been necessary,

the person may claim to have the amount of that dividend withholding tax refunded to the person.

(4) A person making a claim under this section shall furnish, in respect of each amount of dividend withholding tax to which the claim relates, the statement in writing given to the person in accordance with section 172I(1) by the person who made, or who (being an authorised withholding agent) was treated as making, the relevant distribution in relation to which the dividend withholding tax was deducted.

(5) The Revenue Commissioners shall not authorise the setting-off of dividend withholding tax against income tax chargeable on a person for a year of assessment, or pay a refund of dividend withholding tax to a person, unless the Commissioners receive such

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evidence as they consider necessary that the person is entitled to that setting-off or refund. Pt.1 S.27

Returns, payment and collection of dividend withholding tax.

172K.—(1) Any person (in this section referred to as ‘the accountable person’), being a company resident in the State which makes, or an authorised withholding agent who is treated under section 172H as making, any relevant distributions to specified persons in any month shall, within 14 days of the end of that month, make a return to the Collector-General which shall contain details of—

- (a) the name and tax reference number of the company which actually made the relevant distributions,
- (b) if different from the company which actually made the relevant distributions, the name of the accountable person, being an authorised withholding agent, in relation to those distributions,
- (c) the name and address of each person to whom a relevant distribution was made or, as the case may be, was treated as being made by the accountable person in the month to which the return refers,
- (d) the date on which the relevant distribution was made to that person,
- (e) the amount of the relevant distribution made to that person,
- (f) the amount of the dividend withholding tax (if any) in relation to the relevant distribution deducted by the accountable person or, as the case may be, the amount (if any) to be paid to the Collector-General by the accountable person in relation to that distribution as if it were a deduction of dividend withholding tax, and
- (g) the aggregate of the amounts referred to in paragraph (f) in relation to all relevant distributions made or treated under section 172H as being made by the accountable person to specified persons in the month to which the return refers.

(2) Dividend withholding tax which is required to be included in a return under subsection (1) shall be due at the time by which the return is to be made and shall be paid by the accountable person to the Collector-General, and the dividend withholding tax so due shall be payable by the accountable person without the making of an assessment, but dividend withholding tax which has become so due may be assessed on the accountable person (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.

(3) Where it appears to the inspector that there is any amount of dividend withholding tax in relation to a relevant distribution which ought to have been but has not been included in a return under subsection (2), or where the inspector is dissatisfied with any such return, the inspector may make an assessment on the accountable person in relation to the relevant distribution to the best of the inspector's judgment, and any amount of dividend withholding tax in relation to a relevant distribution 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 under subsection (1) had been made.

(4) Where any item has been incorrectly included in a return under subsection (1) as a relevant distribution in relation to which dividend withholding tax is required to be deducted, the inspector may make such assessments, adjustments or set-offs as may in his or her judgment be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the accountable person in relation to the relevant distribution or any other person, are in so far as possible the same as they would have been if the item had not been so included.

(5) Any dividend withholding tax assessed on an accountable person under this Chapter shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (2)) subject to any appeal against the assessment, but no such appeal shall affect the date when any amount is due under subsection (2).

(6) (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

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(iii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of dividend withholding tax.

(b) Any amount of dividend withholding tax payable in accordance with this Chapter without the making of an assessment 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) to (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 dividend withholding 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.

(7) Subject to subsection (8), every return by an accountable person under subsection (1) 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.

(8) Where the Revenue Commissioners are satisfied that an accountable person does not have the facilities to make a return under subsection (1) in the format referred to in subsection (7), 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.

Reporting of distributions made under stapled stock arrangements.

172L.—(1) For the purposes of this section, a distribution made to a person by a company which is not resident in the State (in this section referred to as ‘the non-resident company’) shall be treated as made under a stapled stock arrangement where—

(a) the person has, under any agreement, arrangement or understanding, whether made or entered into on, before or after the 6th day of April, 1999, exercised a right, whether directly or through a nominee or other person acting on behalf of the person, to receive distributions from the non-resident company instead of receiving relevant distributions from a company resident in the State (in this section referred to as ‘the resident company’), and

(b) that right has not been revoked.

(2) Where on or after the 6th day of April, 1999, the non-resident company makes distributions to persons under a stapled stock arrangement, the resident company shall, within 14 days of the end of each month in which those distributions were made, make a return to the Revenue Commissioners which shall contain details of—

(a) the name and tax reference number of the resident company,

(b) the name and address of the non-resident company which made those distributions,

(c) the name and address of each person to whom such a distribution was made in the month to which the return refers,

(d) the date on which such distribution was made to that person, and

(e) the amount of such distribution made to that person.

(3) Subject to subsection (4), every return by a company under subsection (2) shall be made in an electronic format approved by the Revenue Commissioners and shall be accompanied by a declaration made by the company, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that the return is correct and complete.

(4) Where the Revenue Commissioners are satisfied that a company does not have the facilities to make a return under subsection (2) in the format referred to in subsection (3), 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 company, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that the return is correct and complete.

Delegation of powers and functions of Revenue Commissioners.

172M.—The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this Chapter or Schedule 2A to be performed or discharged by the Revenue Commissioners.”,

(b) in section 1078(2), by the insertion of the following paragraph after paragraph (d):

- “(dd) (i) fails to make any deduction of dividend withholding tax (within the meaning of Chapter 8A of Part 6) required to be made by the person under section 172B(1),
- (ii) fails, having made that deduction, to pay the sum deducted to the Collector-General within the time specified in that behalf in section 172K(2),
- (iii) fails to make any reduction required to be made by the person under section 172B(2),
- (iv) fails, having made that reduction, to pay to the Collector-General the amount referred to in section 172B(2)(d), which amount is treated under that section as if it were a deduction of dividend withholding tax (within the meaning of Chapter 8A of Part 6), within the time specified in that behalf in section 172K(2), or
- (v) fails to pay to the Collector-General, within the time specified in that behalf in section 172K(2), an amount referred to in section 172B(3)(a) which is required to be paid by the person to the Collector-General and which is treated under that section as if it were a deduction of dividend withholding tax (within the meaning of Chapter 8A of Part 6),”

(c) by the insertion of the following Schedule after Schedule 2:

“Section 172A.

SCHEDULE 2A

DIVIDEND WITHHOLDING TAX

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;

‘beneficiary’, in relation to a trust, means any person (in this definition referred to as ‘the first-mentioned person’) who, directly or indirectly, is beneficially entitled under the trust, or may, through the exercise of any power or powers conferred on any person or persons, reasonably expect to become so beneficially entitled, to income or capital or to have any income or capital applied for the first-mentioned person’s benefit or to receive any other benefit;

‘settlor’, in relation to a trust, includes any person who has provided or undertaken to provide assets or income directly or indirectly for the purposes of the trust;

‘trust’ means any trust, disposition, settlement, covenant, agreement or arrangement established, made or entered into by one or more than one settlor, whereby—

- (a) assets, which may or may not change from time to time in the course of the management of the trust, or
- (b) income, the sources and nature of which may or may not also so change from time to time,

beneficially owned by the settlor or settlors are or is vested in a person or persons (in this Schedule referred to as the ‘trustee’ or ‘trustees’) to be—

- (i) either or both held and managed for,
- (ii) paid over to, or
- (iii) applied for,

the benefit of any beneficiary or beneficiaries, but does not include a pension fund, charity or undertaking for collective investment in transferable securities which is established or regulated under the law of any relevant territory.

Currency of certain certificates

2. A certificate referred to in paragraph 8(f) or subparagraph (f) or (g) of paragraph 9 shall be treated as a current certificate for the period from the date of the issue

of the certificate to the 31st day of December in the fifth year following the year in which the certificate was issued. Pt.1 S.27

Declaration to be made by company resident in the State

3. The declaration referred to in section 172C(2)(a) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions is a company resident in the State,
- (e) contains the name and tax reference number of the company,
- (f) 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
- (g) 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 pension scheme

4. The declaration referred to in section 172C(2)(b) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions 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,

- (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 qualifying employee share ownership trust

5. The declaration referred to in section 172C(2)(c) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions is a qualifying employee share ownership trust,
- (e) contains the name and address of that 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 form part of the income of the qualifying employee share ownership trust and will be applied in accordance with the provisions of paragraph 13 of Schedule 12,
- (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 collective investment undertaking

6. The declaration referred to in section 172C(2)(d) shall be a declaration in writing to the relevant person in relation to the relevant distributions which—

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- (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, Pt.1 S.27
- (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 distributions is a collective investment undertaking,
- (e) contains the name and tax reference number of the collective investment undertaking,
- (f) 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
- (g) 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 charity

7. The declaration referred to in section 172C(2)(e)(ii) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions is a person referred to in section 172C(2)(e)(i),
- (e) contains the name and address of that 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 to charitable purposes only and—
- (i) form part of the income 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, applicable to 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 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 qualifying non-resident person, not being a company

8. The declaration referred to in section 172D(3)(a)(iii) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions is a qualifying non-resident person,

(e) contains the name and address of that person,

(f) is accompanied by a certificate given by the tax authority of the relevant territory in which the person is, by virtue of the law of that territory, resident for the purposes of tax certifying that the person is so resident in that territory,

(g) in the case where the relevant distributions (or amounts or other assets representing such distributions) are to be received by a trust, is accompanied by—

(i) a certificate signed by the trustee or trustees of the trust which shall show the name and address of—

(I) the settlor or settlors in relation to the trust, and

(II) the beneficiary or beneficiaries in relation to the trust,

and

(ii) a certificate from the Revenue Commissioners certifying that the certificate referred to in clause (i) has been furnished to the Revenue Commissioners and that they are satisfied that that certificate is true and correct,

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(h) contains an undertaking by the declarer that, if the person mentioned in subparagraph (d) ceases to be a qualifying non-resident person, the declarer will, by notice in writing, advise the relevant person in relation to the relevant distributions accordingly, and

(i) 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 qualifying non-resident person,
being a company*

9. The declaration referred to in section 172D(3)(b) shall be a declaration in writing to the relevant person in relation to the relevant distributions 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 distributions is a company which is a qualifying non-resident person,
- (e) contains—
 - (i) the name and address of that company, and
 - (ii) the name of the territory in which the company is resident for the purposes of tax,
- (f) is accompanied by a certificate signed by the auditor of the company certifying that the company is a company which is not resident in the State and—
 - (i) 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

(ii) the principal class of the shares of—

(I) the company, or

(II) another company of which the company is a 75 per cent subsidiary (within the meaning of section 172D(5)),

is substantially and regularly traded on a 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,

(g) is accompanied by a certificate from the Revenue Commissioners certifying that the certificate referred to in subparagraph (f) has been furnished to the Revenue Commissioners and that they are satisfied that that certificate is true and correct,

(h) contains an undertaking by the declarer that, if the person mentioned in subparagraph (d) ceases to be a qualifying non-resident person, the declarer will, by notice in writing, advise the relevant person in relation to the relevant distributions accordingly, and

(i) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 8A of Part 6.”,

and

(d) in Schedule 29, in column 2, by the insertion after “section 128(11)” of the following:

“section 172K(1)
section 172L(2)”.

Distributions to certain non-residents.

28.—(1) The Principal Act is hereby amended by the substitution of the following section for section 153:

“153.—(1) In this section—

‘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— Pt.1 S.28

(i) 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 such a 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

(ii) the principal class of the shares of—

(I) the company, or

(II) another company of which the company is a 75 per cent subsidiary,

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;

‘relevant territory’ means—

(a) a Member State of the European Communities other than the State, or

(b) not being such a Member State, a territory with the government of which arrangements having the force of law by virtue of section 826 have been made;

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

(2) For the purposes of paragraph (b)(i) of the definition of ‘non-resident person’ in subsection (1), ‘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—

(a) in so far as the first mention of ‘control’ in that paragraph is concerned, ‘persons who, by virtue of the law of a relevant territory (within the meaning assigned by section 153), are resident for the purposes of tax in such a relevant territory (within that meaning)’, and

(b) in so far as the second mention of ‘control’ in that paragraph is concerned, ‘persons who are not resident for the purposes of tax in a relevant territory (within that meaning)’.

(3) For the purposes of paragraph (b)(ii)(II) of the definition of ‘non-resident person’ in subsection (1), sections 412 to 418 shall apply as those sections would apply for the purposes of Chapter 5 of Part 12 if subparagraph (iii) of section 411(1)(c) were deleted.

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(4) Where for any year of assessment the income of a person who for that year of assessment is a non-resident person includes an amount in respect of a distribution made by a company resident in the State—

- (a) income tax shall not be chargeable in respect of that distribution, 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.

(5) Where, by virtue of section 831(5), Chapter 8A of Part 6 (other than section 172K) does not apply to a distribution made to a parent company (within the meaning of section 831) which is not resident in the State by its subsidiary (within the meaning of that section) which is a company resident in the State—

- (a) income tax shall not be chargeable in respect of that distribution, 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.”.

(2) Section 712(1) of the Principal Act is hereby amended by the substitution of “Section 129 and subsections (4) and (5) of section 153” for “Sections 129 and 153(1)”.

(3) Section 1033 (which relates to entitlement to tax credit in respect of distributions) of the Principal Act is hereby repealed.

(4) This section shall apply as respects distributions made on or after the 6th day of 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.

29.—Section 831 of the Principal Act is hereby amended—

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

“‘parent company’ means a company (referred to in this definition as the ‘first-mentioned company’) being—

- (i) a company resident in the State which owns at least 25 per cent of the share capital of another company which is not so resident, or
- (ii) a company not resident in the State which owns at least 25 per cent of the share capital of another company which is resident in the State,

but where a bilateral agreement contains a provision to the effect—

- (I) that a company shall only be a parent company during any uninterrupted period of at least 2 years throughout which at least 25 per cent of the share capital of the other company is owned by the first-mentioned company, or

(II) that—

- (A) the requirement (being the requirement for the purposes of this definition) that a company own at least 25 per cent of the share capital of another shall be treated as a requirement that the first-mentioned company holds at least 25 per cent of the voting rights in the other company, or
- (B) that requirement shall be so treated and a company shall only be a parent company during any uninterrupted period of at least 2 years throughout which at least 25 per cent of the voting rights in the other company is held by the first-mentioned company,

then, in its application to a company to which the provision in the bilateral agreement applies, this definition shall apply subject to that provision and shall be construed accordingly;

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

(b) in subsection (2)—

- (i) by the insertion after “a parent company” of “which is resident in the State”, and
- (ii) by the insertion after “subsidiary” of “which is a company not resident in the State”,

and

(c) by the addition after subsection (4) of the following subsections:

“(5) Chapter 8A of Part 6, other than section 172K, shall not apply to a distribution made to a parent company which is not resident in the State by its subsidiary which is a company resident in the State.

(6) Subsection (5) shall not have effect in relation to a distribution made to a parent company if the majority of the voting rights in the parent company are controlled directly or indirectly by persons, other than persons who by virtue of the law of any relevant territory are resident for the purposes of tax in such a relevant territory (within the meaning assigned by section 172A), unless it is shown that the parent company exists for bona fide commercial reasons and does not form part of any arrangement or scheme of which the main purpose, or one of the main purposes, is the avoidance of liability to income tax (including dividend withholding tax under Chapter 8A of Part 6), corporation tax or capital gains tax.”.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

30.—Part 48 of the Principal Act is hereby amended by the insertion of the following section after section 1096:

Construction of references to oaths, etc.

“Construction of references to oaths, etc.

1096A.—(1) Without prejudice to any express provision made elsewhere in those Acts in that behalf, references in the Tax Acts and the Capital

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Gains Tax Acts to an oath shall, in the case of persons for the time being allowed by law to affirm instead of swearing, be construed as including references to an affirmation, and references in those Acts to the administration, taking or swearing of an oath shall be construed accordingly.

(2) In subsection (1) 'law' includes the Oaths Act, 1888, and, without prejudice to their application by virtue of any other provision of the Tax Acts or the Capital Gains Tax Acts, the Oaths Act, 1888, and every other enactment for the time being in force authorising an oath to be taken or an affirmation to be made in any particular manner, shall apply to an oath required to be taken or an affirmation required to be made by the Tax Acts or the Capital Gains Tax Acts."

Amendment of section 97 (computational rules and allowable deductions) of Principal Act.

31.—(1) Section 97 of the Principal Act is hereby amended by the substitution in paragraph (a) of subsection (2B) (inserted by the Finance (No. 2) Act, 1998) and in paragraph (b) of subsection (2C) (as so inserted) of "31st day of March, 1999" for "31st day of December, 1998", and the said paragraphs (a) and (b), as so amended, are set out in the Table to this section.

(2) This section shall be deemed to have come into force and shall take effect as on and from the 20th day of May, 1998.

TABLE

- (a) on or before the 31st day of March, 1999, in the purchase of a residential premises in pursuance of a contract which was evidenced in writing prior to the 23rd day of April, 1998, for the purchase of that premises,
- (b) In any case where paragraph (a) applies, subsection (2B)(a) shall apply only where the money is employed on or before the 31st day of March, 1999, and the person chargeable—
- (i) has before the 23rd day of April, 1998, either—
- (I) an estate or interest in land, or
- (II) entered into a contract evidenced in writing to acquire an estate or interest in land,
- and
- (ii) in respect of any building or part of any building for use or suitable for use as a dwelling to be constructed on that land, either—
- (I) has entered into a contract evidenced in writing before the 23rd day of April, 1998, for the construction of that building or that part of that building, or
- (II) if no such contract exists, satisfies the Revenue Commissioners that the foundation for that building or that part of that building was laid in its entirety before the 23rd day of April, 1998.

Amendment of section 110 (securitisation of assets) of Principal Act.

32.—Part 4 of the Principal Act is hereby amended by the substitution for section 110 of the following section:

"Securitisation of assets.

110.—(1) In this section—

'initial period' in relation to any one originator or original lender means the 3 month period com-

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mencing on the day on which any qualifying assets were first acquired from that originator or original lender, as the case may be; Pt.1 S.32

‘original lender’ means any government, public or local authority, company or other body corporate;

‘originator’ means an original lender who is not resident in the State;

‘qualified company’ has the same meaning as in section 446;

‘qualifying asset’ in relation to a company means—

- (a) in a case where the company is a qualified company, an asset of an originator which the qualified company acquired directly or indirectly from the originator other than an asset which was 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
- (b) in any other case, an asset of an original lender which the company acquired directly or indirectly from the original lender,

where the asset—

- (i) in a case where paragraph (a) applies, consists of, or of an interest in or a contractual right to, any loan, lease, trade or consumer receivable or other debt or receivable whether secured or unsecured,
- (ii) and in the case of a company to which paragraph (b) applies, consists of, or of an interest in any financial asset (within the meaning of section 496);

‘qualifying company’ means a company—

- (a) which is resident in the State,
- (b) which carries on in the State a business of management of qualifying assets,
- (c) which, apart from activities ancillary to that business, carries on no other activities in the State, and
- (d) in relation to which the market value throughout the initial period of all qualifying assets acquired from any

one originator or original lender, as the case may be, is not less than £10,000,000,

but a company shall not be a qualifying company if any transaction is carried out by it otherwise than by way of a bargain made at arm's length.

(2) For the purposes of the Tax Acts in relation to activities carried out in the course of a business carried on by—

(a) a qualifying company which is a qualified company—

(i) such activities shall be deemed to be activities carried out in the course of a trade, the profits or gains of which are chargeable to tax under Case I of Schedule D,

(ii) there shall be deducted as an expense of the trade the amount in so far as it is not—

(I) otherwise deductible, or

(II) recoverable from the originator, or under any insurance, contract of indemnity or otherwise howsoever,

of any debt which is proved to the satisfaction of the inspector to be bad and of a doubtful debt to the extent that it is estimated to be bad, and

(iii) where at any time an amount or part of an amount which has been deducted as an expense under subparagraph (ii) is recovered or is no longer estimated to be bad, the amount which has been so deducted shall, in so far as it is recovered or is no longer estimated to be bad, be treated as trading income of the trade at that time, and

(b) any other qualifying company—

(i) profits arising from such activities shall, notwithstanding any other provisions of the Tax Acts, be treated as annual profits or gains within Schedule D and shall be chargeable to corporation tax under Case III of that Schedule, and for that purpose shall be computed in accordance with the provisions applicable to Case I of that Schedule,

(ii) there shall be deducted, in computing the amount of the profits to be charged to tax the amount, in so far as it is not—

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(I) otherwise deductible, or

(II) recoverable from the original lender or under any insurance, contract of indemnity or otherwise howsoever,

of any debt which is proved to the satisfaction of the inspector to be bad and of a doubtful debt to the extent that it is estimated to be bad; but the amount of the debt shall not be deducted under this paragraph unless it would have been deductible as an expense of the trade of the original lender, where the original lender is a company or other body corporate, if that debt had been proved or estimated to be bad before it was acquired by the qualifying company, and

(iii) where at any time an amount or part of an amount which has been deducted as an expense under subparagraph (ii) is recovered or is no longer estimated to be bad, the amount which has been deducted shall, in so far as it is recovered or no longer estimated to be bad, be treated as income of the qualifying company at that time.”.

33.—Section 118 of the Principal Act is hereby amended, as respects the year of assessment 1999-2000 and subsequent years of assessment, by the insertion of the following subsection after subsection (5):

Amendment of section 118 (benefits-in-kind: general charging provision) of Principal Act.

“(5A) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee of a monthly or annual bus or train pass issued by or on behalf of C oras Iompair  ireann or any of its subsidiaries, or by or on behalf of a holder of a passenger licence granted under section 7 of the Road Transport Act, 1932, or by or on behalf of a person who provides a passenger transport service under an arrangement entered into with C oras Iompair  ireann in accordance with section 13(1) of the Transport Act, 1950.”.

34.—The Principal Act is hereby amended in Chapter 3 of Part 5 by the insertion of the following section after section 120:

Exemption from benefit-in-kind of certain childcare facilities.

“120A.—(1) In this section—

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“childcare service” means any form of child minding service or supervised activity to care for children, whether or not provided on a regular basis;

“qualifying premises” means premises which—

- (a) are made available solely by the employer,
- (b) are made available by the employer jointly with other persons and the employer is wholly or partly responsible for financing and managing the provision of the childcare service, or
- (c) are made available by any other person or persons and the employer is wholly or partly responsible for financing and managing the provision of the childcare service,

and in respect of which it can be shown that the requirements of Article 9, 10 or 11, as appropriate, of the Child Care (Pre-School Services) Regulations, 1996 (S.I. No. 398 of 1996), have been complied with.

(2) Subsection (1) of section 118 shall not apply to any expense incurred by a body corporate in or in connection with the provision of a childcare service in qualifying premises for a child of a director or employee.”.

Amendment of section 472A (relief for the long-term unemployed) of Principal Act.

35.—Section 472A (inserted by Finance Act, 1998) of the Principal Act is hereby amended—

(a) in paragraph (a) of subsection (1) by—

- (i) the insertion before the definition of “director” of the following definitions:

“‘the Act of 1993’ means the Social Welfare (Consolidation) Act, 1993;

‘continuous period of unemployment’ has the meaning assigned in section 120(3) of the Act of 1993;”.

- (ii) the substitution of the following for the definition of “qualifying individual”:

“‘qualifying individual’ means an individual who commences a qualifying employment and who—

- (i) (I) immediately prior to the commencement of that qualifying employment has been unemployed throughout the period of 12 months immediately preceding the commencement of the employment and has, in respect of that period of unemployment, been in receipt of—

- (A) unemployment benefit under Chapter 9 of Part II of the Act of 1993, in respect of a continuous period of unemployment of not less than 312 days, or

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- (B) unemployment assistance under Chapter 2 of Part III of the Act of 1993, in respect of a continuous period of unemployment of not less than 312 days, or
- (C) one-parent family payment under Chapter 9 of Part III of the Act of 1993, in respect of a continuous period of unemployment of not less than 312 days, or

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

and

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

(b) in paragraph (b) of subsection (1) by—

- (i) the substitution in subparagraph (ii) of “of such period, and” for “of such period.”, and
- (ii) the insertion after subparagraph (ii) of the following subparagraph:

“(iii) every Sunday in any period of consecutive days shall not be treated as a day of unemployment and shall be disregarded in computing any such period.”,

and

(c) in paragraph (b) of subsection (5) by the substitution of “subsection (1)(b)(i)” for “subsection (2)”.

36.—(1) Section 485 of the Principal Act is hereby amended in subsection (1) by the substitution of the following definition for the definition of “approved institution”:

Amendment of section 485 (relief for gifts to third-level institutions) of Principal Act.

“‘approved institution’ means—

- (a) an institution of higher education within the meaning of section 1 of the Higher Education Authority Act, 1971, or any body established in the State for the sole purpose of raising funds for such an institution, or
- (b) an institution in the State in receipt of public funding which provides courses to which a scheme approved by the Minister under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies or any body established in the State for the sole purpose of raising funds for such an institution;”.

(2) This section shall apply and have effect as on and from the 6th day of April, 1999.

Pt.1
Relief for gifts to
the Scientific and
Technological
Education
(Investment) Fund.

37.—The Principal Act is hereby amended in Chapter 2 of Part 15, by the insertion of the following section after section 485A:

“Relief for gifts to
the Scientific and
Technological
Education
(Investment) Fund.

485B.—(1) In this section—

‘Minister’ means the Minister for Education and Science;

‘relevant gift’ means a gift of money which—

- (a) on or after the 6th day of April, 1998, is made to STEIF,
- (b) is or will be applied by STEIF solely for the purposes for which the fund was established, and
- (c) apart from this section is not deductible in computing for the purposes of tax the profits or gains of a trade or profession, or is not income to which section 792 applies or is not a gift of money to which section 484 applies;

‘STEIF’ means the Scientific and Technological Education (Investment) Fund established under the Scientific and Technological Education (Investment) Fund Act, 1997 (as amended by the Scientific and Technological Education (Investment) Fund (Amendment) Act, 1998).

(2) Where it is proved to the satisfaction of the Revenue Commissioners that a person has made a relevant gift and the person claims relief from tax by reference to that gift, subsection (5) or, as the case may be, subsection (6) shall apply.

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

(4) In determining the net amount of the relevant gift for the purposes of subsection (5) or subsection (6), the amount or value of any consideration received by the person concerned as a result of making the gift, whether received directly or indirectly from STEIF or otherwise, shall be deducted from the gift.

(5) For the purposes of income tax for the year of assessment in which a person makes a relevant gift to which this section applies, 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.

(6) 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.

(7) Relief under this section shall not be given to a person for any year of assessment or accounting period, as the case may be, if the net amount of the gift (or the aggregate of the net amount of gifts) made by such person in that year or accounting period, as the case may be, is less than £1,000.

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

(9) For the purposes of a claim to relief under this section, STEIF shall, on acceptance of a relevant gift, give to the person making the gift a receipt which shall—

(a) contain a statement that—

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

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

and

(b) show—

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

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

(iii) the date of the relevant gift,

(iv) the date on which the receipt was issued.”.

38.—(1) Section 225(1) of the Principal Act is hereby amended by the substitution of the following paragraphs for paragraphs (a) and (b):

Amendment of section 225 (employment grants) of Principal Act.

“(a) section 3 or 4 (as amended by the Shannon Free Airport Development Company Limited (Amendment) Act, 1983) of the Shannon Free Airport Development Company Limited (Amendment) Act, 1970,

(b) section 25 of the Industrial Development Act, 1986, or

(c) section 12 of the Industrial Development Act, 1993.”.

(2) This section shall be deemed to have applied as respects a grant made on or after the 6th day of April, 1996.

Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.

39.—Section 246 of the Principal Act is hereby amended—

(a) in subsection (1)—

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

“‘a collective investment undertaking’ means—

(a) a unit trust scheme which is or is deemed to be an authorised unit trust scheme (within the meaning of the Unit Trusts Act, 1990) and which 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 (within the meaning of section 734) being an undertaking which holds an authorisation, which has not been revoked, issued pursuant to the relevant Regulations,

(c) a limited partnership which—

(i) has as its principal business, as expressed in the partnership agreement establishing the limited partnership, the investment of its funds in property, and

(ii) has been authorised to carry on that business, under any enactment providing for such authorisation, by the Central Bank of Ireland and which has not had its authorisation under such enactment revoked,

and

(d) 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 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) where all the holders of units are Pt.1 S.39
collective investors;

‘collective investor’ has the same meaning as in
section 734(1);’,

(ii) by the insertion after the definition of “company” of
the following:

“‘relevant person’ means—

(a) a company, or

(b) a collective investment undertaking;”,

(iii) in the definition of “relevant security”—

(I) by the substitution of “in the course of carrying
on relevant trading operations within the mean-
ing of section 445 or 446” for “on or before the
31st day of December, 2005”, and

(II) by the substitution of “issued;” for “issued.”,

and

(iv) by the insertion after the definition of “relevant
security” of the following:

“‘relevant territory’ means—

(a) a Member State of the European Communi-
ties other than the State, or

(b) not being such a Member State, a territory
with the government of which arrange-
ments having the force of law by virtue
of section 826 have been made.”,

(b) in subsection (3)—

(i) in paragraph (f), by the substitution of “section 700,”
for “section 700, or”,

(ii) in paragraph (g), by the substitution of “distribution,
or” for “distribution.”, and

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

“(h) interest, other than interest referred to in
paragraphs (a) to (g), paid by a relevant
person in the ordinary course of a trade
or business carried on by that person to
a company resident in a relevant territory
except where such interest is paid to that
company in connection with a trade or
business which is carried on in the State
by that company through a branch or
agency.”,

and

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(c) in subsection (4), by the substitution of the following paragraphs for paragraphs (a) and (b):

“(a) as if in section 445 the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (8), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purposes of this section.’,

and

(b) as if in section 446 the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (9), the Minister may give a certificate certifying that such trading operations of a company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purposes of this section.’”.

Returns of interest paid to non-residents.

40.—Part 38 of the Principal Act is hereby amended by the addition, after section 891, of the following section—

“Returns of interest paid to non-residents.

891A.—(1) In this section—

‘appropriate inspector’ has the same meaning as in section 950(1);

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

‘relevant interest’ means interest to which subsection (2) of section 246 does not apply by virtue only of paragraph (h) (inserted by the *Finance Act, 1999*) of subsection (3) of that section;

‘relevant person’ has the same meaning as in section 246;

‘specified return date for the chargeable period’ has the same meaning as in section 894(1).

(2) (a) Subject to paragraph (c), every relevant person who pays relevant interest in a chargeable period shall prepare and deliver to the appropriate inspector on or before the specified return date for the chargeable period a return of all relevant interest so paid by the relevant person in the chargeable period stating in the case of each person to whom that relevant interest was paid—

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- (i) the name and address of the person, Pt.1 S.40
- (ii) the amount of relevant interest paid to the person in the chargeable period, and
- (iii) the territory in which the person is resident for tax purposes.
- (b) Section 891 shall not apply, in respect of the payment of relevant interest, to any relevant person to whom paragraph (a) applies.
- (c) Sections 1052 and 1054 shall apply to a failure by a relevant person to deliver a return required by paragraph (a) and to each and every such failure, as they apply to a failure to deliver a return referred to in section 1052.”.

41.—Schedule 29 to the Principal Act is hereby amended—

Amendment of Schedule 29 (provisions referred to in sections 1052, 1053 and 1054) to Principal Act.

- (a) in column 1 by the insertion after “section 951(1) and (2)” of “section 986 and Regulations under that section”, and
- (b) in column 2 by the insertion after “section 891” of “section 891A”.

42.—Section 2 of the Urban Renewal Act, 1998, is hereby amended by the substitution of the following for subsection (5):

Amendment of section 2 (commencement) of Urban Renewal Act, 1998.

“(5) Subsection (1) of section 20 shall come into operation on such day or days as the Minister for Finance may appoint by order or orders and different days may be so appointed for different provisions of that subsection or for different purposes and, in particular, different days may be so appointed for the coming into operation of that subsection as respects different provisions of the definition of ‘specified period’ inserted in section 322 of the Taxes Consolidation Act, 1997.”.

43.—Section 330 of the Principal Act is hereby amended, in subsection (1), by the substitution of the following for the definition of “qualifying period”:

Amendment of section 330 (interpretation (Chapter 2)) of Principal Act.

“ ‘qualifying period’ means the period commencing—

- (a) for the purposes of any provision of this Chapter other than section 334, 335 or 336, the 6th day of April, 1991, or
- (b) for the purposes of sections 334 to 336, the 30th day of January, 1991,

and ending on—

- (i) the 5th day of April, 1999, or

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- (ii) the 31st day of December, 1999, where, in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of a house which is a qualifying premises within the meaning of section 334, 335, 336 or 337, the corporation of the county borough of Dublin gives a certificate in writing, on or before the 31st day of July, 1999, to the person constructing, converting or refurbishing, as the case may be, the house stating that it is satisfied that not less than 50 per cent of the total cost of the house and the site thereof had been incurred on or before the 5th day of April, 1999;”.

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.

44.—Chapter 3 of Part 10 of the Principal Act is hereby amended—

- (a) in section 339(2), by the insertion after paragraph (c) of the following paragraph:

“(d) Where, in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of a building or structure which complies with the requirements of subparagraphs (i), (ii) and (iii) of paragraph (c), being a qualifying premises within the meaning of section 346, 347, 348 or 349, where—

(i) the expenditure to be incurred on the house has not been fully incurred by the 31st day of December, 1998, and

(ii) the relevant local authority gives a certificate in writing on or before the 28th day of February, 1999, to the person constructing, converting or refurbishing, as the case may be, the house stating that it is satisfied that not less than 50 per cent of the total cost of the house and the site thereof had been incurred on or before the 31st day of December, 1998,

then, the reference in paragraph (a) of the definition of ‘qualifying period’ in subsection (1) to the period ending on the 31st day of July, 1997, shall be construed as a reference to the period ending on the 30th day of April, 1999.”,

- (b) in section 340(1)(b), by the insertion after “the 31st day of July, 1997” of “, or, as the case may be, after the day to which the reference to the 31st day of July, 1997, is, by virtue of section 339(2), to be construed”,

- (c) in section 343—

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

“ ‘qualifying company’ means a company—

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

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(ii) which is engaged in a qualifying trading operation within the meaning of paragraph (c) of the definition of 'qualifying trading operations',

and

(b) to which the Minister has given a certificate under subsection (2) which has not been withdrawn in accordance with subsection (5) or (6);",

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

“(a) on the recommendation of Forfás (in conjunction with Enterprise Ireland, the Industrial Development Agency (Ireland) or Údarás na Gaeltachta, as may be appropriate, or the Minister for Public Enterprise in the case of a company to which paragraph (a)(ii) of the definition of 'qualifying company' refers) in accordance with guidelines laid down by the Minister, and”,

and

(iii) in subsection (8)(a), by the substitution, with effect as on and from the 1st day of January, 1998, for subparagraph (iv) of the following:

“(iv) the following subsection were substituted for subsection (4) of that section:

“(4) An industrial building allowance, in the case of a qualifying building (within the meaning of section 343(1)), shall be of an amount equal to—

(a) 25 per cent, or

(b) in the case of such a building the site of which is wholly within an area described in an order referred to in section 340(2)(i), 50 per cent,

of the capital expenditure mentioned in subsection (2).”,

(d) in section 344—

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

(I) in paragraph (b), by the substitution of “of this definition, or” for “of this definition;”,

and

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

“(c) the 31st day of December, 2000, 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 the 30th day of September, 1999, 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 the 30th day of June, 1999;”

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

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

“(6A) Subsection (6) shall apply and have effect as respects capital expenditure referred to in subsection (2)(b), which is incurred after the 31st day of July, 1998, only if a qualifying lease, within the meaning of section 345, is granted in respect of the qualifying multi-storey car park in respect of which that expenditure is incurred.”

and

(e) in section 345—

(i) in subsection (1), by the substitution for the definition of “qualifying lease” of the following:

“‘qualifying lease’ means, subject to subsections (1A) and (8), a lease in respect of a qualifying premises granted in the qualifying period, or within the period of one year from the day next after the end of the qualifying period, on bona fide commercial terms by a lessor to a lessee not connected with the lessor, or with any other person entitled to a rent in respect of the qualifying premises, whether under that lease or any other lease but, notwithstanding the foregoing, a lease which would otherwise be a qualifying lease shall not be such a lease if granted in respect of a building or structure within the meaning of paragraph (a)(iii) of the definition of ‘qualifying premises’ the site of which is wholly within an area—

(a) described in an order referred to in section 340(1)(a), if the lease is granted on or after the 31st day of July, 1999, or

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(b) described in Schedule 7, if the lease is granted on or after the 31st day of December, 1999, or

(c) described in an order referred to in section 340(2)(i), irrespective of the date of the granting of the lease;”,

and

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

“(1A) Notwithstanding any other provision of this Chapter, including this section, ‘qualifying period’ for the purposes of this section in the case of a building or structure within the meaning of paragraph (a)(v) of the definition of ‘qualifying premises’ in subsection (1) means the period commencing on the 1st day of August, 1994, and ending on—

(a) the 31st day of July, 1997, or

(b) the 30th day of June, 1998, where, in relation to the construction or refurbishment of the qualifying multi-storey car park concerned, the relevant local authority has certified in accordance with the requirements of paragraph (b) of the definition of ‘qualifying period’ in section 344(1).”.

45.—Section 351 of the Principal Act is hereby amended by the substitution of the following for the definition of “‘qualifying period’”:

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

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

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

(b) the 31st day of December, 1999, where, in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of the building or structure concerned, being—

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

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

the relevant local authority gives a certificate in writing, on or before the 30th day of September, 1999, to the person constructing, converting or refurbishing, as the case may be, the building or structure stating that it is satisfied that not less than 50 per cent of the total cost of the building or structure and the site thereof had been incurred on or before the 30th day of June, 1999, and, in considering whether to give such a certificate, the relevant local authority shall have regard only to guidelines in relation to the

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giving of such certificates issued by the Department of the Environment and Local Government for the purposes of this definition;”.

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

46.—Section 360 of the Principal Act is hereby amended—

(a) by the substitution of the following for the definition of “qualifying period”:

“ ‘qualifying period’ means the period commencing on the 1st day of August, 1996, and ending on—

(a) the 31st day of July, 1999, or

(b) the 31st day of December, 1999, where, in relation to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of a house which is a qualifying premises within the meaning of section 361, 362, 363 or 364, the relevant local authority gives a certificate in writing, on or before the 31st day of October, 1999, to the person constructing, converting or refurbishing, as the case may be, the house stating that it is satisfied that not less than 50 per cent of the total cost of the house and the site thereof had been incurred on or before the 31st day of July, 1999;”.

and

(b) by the insertion of the following definition after the definition of “qualifying period”:

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

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

47.—(1) Chapter 8 of Part 10 of the Principal Act is hereby amended—

(a) in section 372L—

(i) in the definition of “qualifying period” (inserted by the Finance (No. 2) Act, 1998), by the substitution of the following for paragraph (b):

“(b) for the purposes of sections 372P, 372Q, 372R and (in so far as it relates to those sections) section 372S, the period commencing on the 1st day of June, 1998, and ending on the 31st day of December, 2001, and

(c) for the purposes of section 372RA and (in so far as it relates to that section) section

372S, the period commencing on the 6th day of April, 1999, and ending on the 31st day of December, 2001;”, and

- (ii) in the definition of “refurbishment”, by the substitution of “sections 372R and 372RA” for “section 372R”,
- (b) in section 372M(1), by the substitution of “paragraph (a) or (b) of section 268(1)” for “section 268(1)(a)”,
- (c) in section 372P(1)—
 - (i) in the definition of “qualifying lease”, by the substitution of “3 months” for “12 months”, and
 - (ii) in the definition of “qualifying premises”, by the substitution of “140 square metres” for “125 square metres”,
- (d) in section 372Q(1)—
 - (i) in the definition of “qualifying lease”, by the substitution of “3 months” for “12 months”, and
 - (ii) in the definition of “qualifying premises”, by the substitution of “150 square metres” for “125 square metres”,
- (e) in section 372R(1)—
 - (i) in the definition of “qualifying lease”, by the substitution of “3 months” for “12 months”, and
 - (ii) in the definition of “qualifying premises”, by the substitution of “150 square metres” for “125 square metres”,
- (f) by the insertion of the following section after section 372R:

“Residential accommodation: allowance to owner-occupiers in respect of certain expenditure on construction or refurbishment.

372RA.—(1) In this section—

‘qualifying expenditure’, in relation to an individual, means an amount equal to the amount of the expenditure incurred by the individual on the construction or, as the case may be, refurbishment of a qualifying premises which is a qualifying owner-occupied dwelling in relation to the individual after deducting from that amount of expenditure any sum in respect of or by reference to—

- (a) that expenditure,
- (b) the qualifying premises, or
- (c) the construction or, as the case may be, refurbishment work in respect of which that expenditure was incurred,

which the individual has received or is entitled to receive, directly or indirectly,

from the State, any board established by statute or any public or local authority;

‘qualifying owner-occupied dwelling’, in relation to an individual, means a qualifying premises which is first used, after the qualifying expenditure has been incurred, by the individual as his or her only or main residence;

‘qualifying premises’, in relation to the incurring of qualifying expenditure, means, subject to subsections (4) and (5) of section 372S, a house—

- (a) the site of which is wholly within a qualifying rural area,
- (b) which is used solely as a dwelling,
- (c) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of construction or, as the case may be, refurbishment of the house is not less than the expenditure actually incurred on such construction or refurbishment, as the case may be, and
- (d) the total floor area of which is not less than 38 square metres and not more than—
 - (i) in the case where the qualifying expenditure has been incurred on the construction of the qualifying premises, 210 square metres, or
 - (ii) in the case where the qualifying expenditure has been incurred on the refurbishment of the qualifying premises, 210 square metres;

‘refurbishment’ has the same meaning as in section 372R.

- (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—

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

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

(b) A deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure is to be treated under section 372S(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) Section 372S shall apply for the purposes of supplementing this section.”

and

(g) (i) in section 372S(1)—

(I) by the substitution of “In sections 372P to 372RA” for “In sections 372P to 372R”, and

(II) in the definition of “certificate of reasonable cost”, by the substitution of “372Q, 372R or 372RA” for “372Q or 372R”,

(ii) in section 372S(4)(a), by the insertion after “section 372P” of “or, in so far as it applies to expenditure other than expenditure on refurbishment, section 372RA”,

(iii) in section 372S(4)(b), by the insertion after “section 372Q or 372R” of “or, in so far as it applies to expenditure on refurbishment, section 372RA”,

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

“(5) A house shall not be a qualifying premises—

(a) for the purposes of section 372P, 372Q, 372R or 372RA, 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, and

(b) for the purposes of sections 372P, 372Q or 372R, unless, throughout the period of any qualifying lease related to that premises, the house is used as the sole or main residence of the lessee in relation to that qualifying lease.”,

(v) in section 372S(6)—

(I) by the substitution of “sections 372P to 372RA” for “sections 372P to 372R”, and

(II) by the substitution of “refurbishment of, or, as the case may be, construction or refurbishment of,” for “or refurbishment of,”

(vi) in section 372S(7)(a)—

(I) by the substitution of “, 372R(2) or 372RA(2)” for “or 372R(2)”, and

(II) by the substitution of “refurbishment of, or, as the case may be, construction or refurbishment of,” for “or refurbishment of,” in both places where it occurs,

(vii) in section 372S(7)(b), by the substitution of “refurbishment of, or, as the case may be, construction or refurbishment of,” for “or refurbishment of,” in both places where it occurs,

(viii) in section 372S(8), by the insertion of the following paragraph after paragraph (b):

“(c) For the purposes of section 372RA 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.”, and

(ix) in section 372S(11), by the substitution of “, 372R or 372RA” for “or 372R”.

(2) The Principal Act is hereby amended—

(a) in section 458 by the insertion in Part 1 of the Table to that section after “Section 371” of “Section 372I
Section 372RA”,

and

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- (b) by the substitution in section 1024(2)(a)(i) of “364, 371, 372I and 372RA” for “364 and 371”.

48.—Part 9 (as amended by the Finance Act, 1998) of the Principal Act is hereby amended—

Capital allowances
for private
convalescent homes.

- (a) in section 268—

- (i) in subsection (1)—

- (I) in paragraph (g), by the substitution of “section 4 of that Act,” for “section 4 of that Act, or”,
- (II) in paragraph (h), by the substitution of “paragraph (f) relates, or” for “paragraph (f) relates,” and
- (III) by the insertion after paragraph (h) of the following paragraph:

“(j) 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, gives a certificate in writing to the person operating or managing the convalescent home stating that it is satisfied that the convalescent home meets the requirements and standards set out in the guidelines in relation to the operation and management of convalescent homes issued by the Minister for Health and Children with the consent of the Minister for Finance,”,

and

- (ii) in subsection (9)—

- (I) in paragraph (d), by the deletion of “and”,
- (II) in paragraph (e), by the substitution of the following for subparagraph (ii):

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

and”,

and

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

“(f) by reference to paragraph (i), as respects capital expenditure incurred on or after the 2nd day of December, 1998.”,

(b) in section 272—

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

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

and

(ii) in subsection (4), by the substitution of the following for paragraph (f):

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

and

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

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

Capital allowances for buildings used for certain childcare purposes.

49.—The Principal Act is hereby amended—

(a) in section 409A (inserted by the Finance Act, 1998), by the insertion in paragraph (b) of the definition of “specified building” in subsection (1), after “section 843”, of “or 843A”, and

(b) in Part 36, by the insertion after section 843 of the following section:

“Capital allowances for buildings used for certain childcare purposes.

843A.—(1) In this section—

‘pre-school child’ and ‘pre-school service’ have the meanings respectively assigned to them by section 49 of the Child Care Act, 1991;

‘qualifying expenditure’ means capital expenditure incurred on or after the 2nd day of December, 1998, on the construction, conversion or refurbishment of a qualifying premises;

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'qualifying premises' means a building Pt.1 S.49
or structure which—

- (a) apart from this section is not an industrial building or structure within the meaning of section 268, and
- (b) is in use for the purposes of providing—
 - (i) a pre-school service, or
 - (ii) a pre-school service and a day-care or other service to cater for children other than pre-school children,

and in respect of which it can be shown (to the extent that it is being used for the purposes of providing a pre-school service) that the requirements of Article 9, 10(1) or 11, as appropriate, of the Child Care (Pre-School Services) Regulations, 1996 (S.I. No. 398 of 1996), have been complied with,

but does not include any part of a building or structure in use as or as part of a dwelling-house.

(2) Subject to subsections (3) to (5), the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply in relation to qualifying expenditure on a qualifying premises—

- (a) as if a qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Part 9 by reason of its use for a purpose specified in section 268(1)(a), and

(b) where any activity carried on in the qualifying premises is not a trade, as if it were a trade.

(3) In relation to qualifying expenditure on a qualifying premises section 272 shall apply as if—

(a) in subsection (3)(a)(ii) of that section the reference to 4 per cent were a reference to 15 per cent, and

(b) in subsection (4)(a)(ii) of that section the reference to 25 years were a reference to 7 years.

(4) Notwithstanding section 274(1), no balancing allowance or balancing charge shall be made in relation to a qualifying premises by reason of any event referred to in that section which occurs—

(a) more than 10 years after the qualifying premises was first used, or

(b) in a case where section 276 applies, more than 10 years after the qualifying expenditure on refurbishment of the qualifying premises was incurred.”.

Relief for provision of certain student accommodation.

50.—The Principal Act is hereby amended by the insertion after Part 11 of the following:

“PART 11A

Income Tax and Corporation Tax: Deduction for Expenditure on Construction, Conversion and Refurbishment of Certain Residential Accommodation for Certain Students

Interpretation (Part 11A).

380A.—In this Part—

‘lease’, ‘lessee’, ‘lessor’, ‘premium’ and ‘rent’ have the same meanings respectively as in Chapter 8 of Part 4;

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

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be attributable to the acquisition of, or of rights in or over, the land on which the building, structure or house is constructed;

‘qualifying area’ means an area or areas specified as a qualifying area in the relevant guidelines;

‘qualifying period’ means, the period commencing on the 1st day of April, 1999, and ending on the 31st day of March, 2003;

‘the relevant guidelines’ means guidelines issued for the purposes of this Part by the Minister for Education and Science in consultation with the Minister for the Environment and Local Government and 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 design and the construction of, conversion into, 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,
- (iv) the granting of certificates of reasonable cost,
- (v) the designation of qualifying areas,
- (vi) the terms and conditions relating to qualifying leases, and
- (vii) the educational institutions and the students attending those institutions for whom the accommodation is provided.

Rented residential accommodation: deduction for certain expenditure on construction.

380B.—(1) In this section—

‘qualifying lease’, in relation to a house, means, subject to section 380E(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), (5) and (6) of section 380E, 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 complies with the requirements of the relevant guidelines,
- (d) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost, the amount specified in which in respect of the cost of construction of the house is not less than the expenditure actually incurred on such construction, and
- (e) which without having been used is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant cost', in relation to a house, means, subject to subsection (4), an amount equal to the aggregate of—

- (a) the expenditure incurred on the acquisition of, or of rights in or over, any land on which the house is constructed, and
- (b) the expenditure actually incurred on the construction of the house;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred expenditure on the construction of a qualifying premises—

- (a) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so

much (if any) of that expenditure as is to be treated under section 380E(8) 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 380E(8) 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 380E(8) 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 380E(8) 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 380E(8) 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 380E shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on conversion.

380C.—(1) In this section—

‘conversion expenditure’ means, subject to subsection (2), expenditure incurred on—

(a) the conversion into a house of a building—

(i) the site of which is wholly within a qualifying area, and

(ii) which has not been previously in use as a dwelling,

and

(b) the conversion into 2 or more houses of a building—

(i) the site of which is wholly within a qualifying area, and

(ii) which before the conversion had not been in use as a dwelling or had been in use as a single dwelling,

and references in this section and in section 380E 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 380E(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), (5) and (6) of section 380E, a house—

- (a) which is used solely as a dwelling,
- (b) the total floor area of which complies with the requirements of the relevant guidelines,
- (c) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house is not less than the expenditure actually incurred on such conversion, and
- (d) which without having been used subsequent to the incurring of the expenditure on the conversion is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) For the purposes of this section, expenditure incurred on the conversion of a building shall be deemed to include expenditure incurred in the course of the conversion on either or both of the following—

- (a) the carrying out of any works of construction, reconstruction, repair or renewal, and
- (b) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or any outoffice appurtenant to or usually enjoyed with the building, but shall not be deemed to include—

- (i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or
- (ii) any expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the conversion is not a house.

(3) For the purposes of subsection (2)(ii), where expenditure is attributable to a building in general and not directly to any particular house or non-residential unit comprised in the building on completion of the conversion, such an amount

of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building.

(4) Subject to subsection (5), where a person, having made a claim in that behalf, proves to have incurred conversion expenditure in relation to a house which is a qualifying premises—

(a) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 380E(8) 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 380E(8) 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 380E(8) or under this section (apart from subsection (5)(b)) the lessor was treated as having incurred in the qualifying period in relation to the house, but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

- (a) the net price paid by such person on the purchase, or
- (b) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 380E(8) 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 380E(8) 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 380E(8) 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 1998.

(11) Section 380E shall apply for the purposes of supplementing this section.

Rented residential accommodation: deduction for certain expenditure on refurbishment.

380D.—(1) In this section—

‘qualifying lease’, in relation to a house, means, subject to section 380E(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—

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- (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), (5) and (6) of section 380E, a house—

- (a) which is used solely as a dwelling,
- (b) the total floor area of which complies with the requirements of the relevant guidelines,
- (c) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of refurbishment in relation to the house is not less than the relevant expenditure actually incurred on such refurbishment, and
- (d) which on the date of completion of the refurbishment to which the relevant expenditure relates is let (or, if not let on that date, is, without having been used after that date, first let) in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

'refurbishment', in relation to a building, means either or both of the following—

- (a) the carrying out of any works of construction, reconstruction, repair or renewal, and
- (b) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works or the provision of such facilities is certified by the Minister for the Environment and Local Government, in any certificate of reasonable cost granted by that Minister in relation to any house contained in the building, to have been necessary for the purposes of ensuring the suitability as a dwelling of any house in the building and whether or not the number of houses in the building, or the shape or size of any such house, is altered in the course of such refurbishment;

'relevant expenditure' means expenditure incurred on the refurbishment of a specified building, other than expenditure attributable to any part (in this section referred to as a 'non-residential unit') of the building which on completion of the refurbishment is not a house, and for the purposes of this definition where expenditure is attributable to the specified building in general (and not directly to any particular house or non-residential unit comprised in the building on completion of the refurbishment), such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building;

'relevant period', in relation to a qualifying premises, means the period of 10 years beginning on the date of the completion of the refurbishment to which the relevant expenditure relates or, if the premises was not let under a qualifying lease on that date, the period of 10 years beginning on the date of the first such letting after the date of such completion;

'specified building' means a building—

- (a) the site of which is wholly within a qualifying area,
- (b) in which before the refurbishment to which the relevant expenditure relates there are 2 or more houses, and
- (c) which on completion of that refurbishment contains (whether in addition to any non-residential unit or not) 2 or more houses.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred relevant expenditure in relation to a house which is a qualifying premises—

(a) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 380E(8) 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 380E(8) 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 380E(8) or under this section (apart from subsection (3)(b)) the lessor was treated as having incurred in the qualifying period in relation to the house, but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

- (a) the net price paid by such person on the purchase, or
- (b) in case only a part of the relevant expenditure incurred in relation to the

house is to be treated under section 380E(8) 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 380E(8) 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 380E(8) 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 1998.

(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 380E shall apply for the purposes of supplementing this section.

Government for the purposes of section 380B, 380C or 380D, as the case may be, stating that the amount specified in the certificate in relation to the cost of construction of, conversion into, or refurbishment of, the house to which the certificate relates appears to that Minister at the time of the granting of the certificate and on the basis of the information available to that Minister at that time to be reasonable, and section 18 of the Housing (Miscellaneous Provisions) Act, 1979, shall, with any necessary modifications, apply to a certificate of reasonable cost as if it were a certificate of reasonable value within the meaning of that section;

'house' includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building;

'total floor area' means the total floor area of a house measured in the manner referred to in section 4(2)(b) of the Housing (Miscellaneous Provisions) Act, 1979.

(2) A lease shall not be a qualifying lease for the purposes of section 380B, 380C or 380D if—

- (a) 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, and
- (b) it does not comply with the requirements of the relevant guidelines.

(3) A house shall not be a qualifying premises for the purposes of section 380B, 380C or 380D 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 380B(2), 380C(4) or 380D(2), as the case may be, and
- (b) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(4) (a) A house shall not be a qualifying premises for the purposes of section 380B 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 380C or 380D unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvements of houses and the provision of water, sewerage and other services in houses.

(5) A house shall not be a qualifying premises for the purposes of section 380B, 380C or 380D 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) A house shall not be a qualifying premises for the purposes of section 380B, 380C or 380D unless throughout the relevant period (within the meaning of section 380B, 380C or 380D, as the case may be) it is used for letting to and occupation by students in accordance with the relevant guidelines.

(7) For the purposes of sections 380B to 380D, references in those sections to the construction of, conversion into, or refurbishment of, any premises shall be construed as including references to the development of the land on which the premises is situated or which is used in the provision of gardens, grounds, access or amenities in relation to the premises and, without prejudice to the generality of the foregoing, as including in particular—

(a) demolition or dismantling of any building on the land,

(b) site clearance, earth moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works,

- (c) walls, power supply, drainage, sanitation and water supply, and
- (d) the construction of any outhouses or other buildings or structures for use by the occupants of the premises or for use in the provision of amenities for the occupants.
- (8) (a) For the purposes of determining, in relation to any claim under section 380B(2), 380C(4) or 380D(2), as the case may be, whether and to what extent expenditure incurred on the construction of, conversion into or refurbishment of, a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into or refurbishment of, the premises actually carried out during the qualifying period shall be treated as having been incurred during that period.
- (b) Where by virtue of subsection (7) expenditure on the construction of, conversion into or refurbishment of, a qualifying premises includes expenditure on the development of any land, paragraph (a) shall apply with any necessary modifications as if the references in that paragraph to the construction of, conversion into or refurbishment of, the qualifying premises were references to the development of such land.
- (9) (a) For the purposes of sections 380B and 380C other than the purposes mentioned in subsection (8)(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 380D other than the purposes mentioned in subsection (8)(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.
- (10) For the purposes of sections 380B to 380D, 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. Pt.1 S.50

(11) Section 555 shall apply as if a deduction under section 380B(2), 380C(4) or 380D(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 380B(5), 380C(7) or 380D(5), as the case may be, were a balancing charge.

(12) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 380B, 380C or 380D (other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979) in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.

Provision against double relief.

380F.—Where relief is given by virtue of any provision of this Part in relation to expenditure incurred on any premises, relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.”.

51.—Section 843 of the Principal Act is hereby amended—

- (a) in subsection (7), by the substitution of “31st day of December, 2002” for “1st day of July, 2000”, and
- (b) by the insertion of the following subsection after subsection (7):

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

“(8) Notwithstanding the powers conferred and duties imposed—

- (a) on the Minister for Education and Science and the Minister for Finance to approve or give consent to the approval of, respectively, certain capital expenditure by virtue of the definition of ‘qualifying expenditure’ in subsection (1), and

(b) on the Minister for Finance—

- (i) to certify compliance with the requirements of subsection (4), or
- (ii) not to give a certificate under that subsection at any time later than a particular day by virtue of subsection (7),

the Minister for Education and Science and the Minister for Finance may, either generally or in respect of capital expenditure to be incurred on any

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particular type of qualifying premises, and subject to such conditions, if any, which they may see fit to impose, agree to delegate and may so delegate, in writing, to An tÚdarás the authority to exercise the powers and carry out the duties referred to in paragraphs (a) and (b) and where these Ministers of the Government so delegate that authority—

(I) the definition of ‘qualifying expenditure’ in subsection (1) shall apply as if the reference in that definition to ‘, following receipt of the advice of An tÚdarás, is approved for that purpose by the Minister for Education and Science with the consent of the Minister for Finance’ were a reference to ‘is approved for that purpose by An tÚdarás’, and

(II) subsections (4) and (7) shall apply as if the references in those subsections to ‘the Minister for Finance’ were references to ‘An tÚdarás.’.

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

52.—(1) Section 403 of the Principal Act is hereby amended, in subsection (9) (as amended by the Finance Act, 1998)—

(a) in subparagraphs (i) and (ii) of paragraph (a), by the substitution of “lessee or lessor” for “lessee” in each place where it occurs, and

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

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

(2) This section shall apply as on and from the 4th day of March, 1998.

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

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

(a) in subsection (2) of section 373—

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

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

“(k) £16,000, where the expenditure was incurred on or after the 2nd day of December, 1998, on the provision or hiring of a vehicle which, on or after that

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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.”, Pt.1 S.53

and

(b) in subsection (1) of section 376, in the definition of “relevant amount”—

(i) in paragraph (b), by the substitution of “£15,000,” for “£15,000, and”, and

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

“(c) in relation to qualifying expenditure incurred on or after the 3rd day of December, 1997, and before the 2nd day of December, 1998, £15,500, and

(d) in relation to qualifying expenditure incurred on or after the 2nd day of December, 1998, £16,000;”.

54.—Section 666 of the Principal Act is hereby amended in subsection (4)—

Amendment of section 666 (deduction for increase in stock values) of Principal Act.

(a) by the substitution in paragraph (a) of “2001” for “1999”, and

(b) by the substitution in paragraph (b) of “2000-01” for “1998-99”,

and the said paragraphs (a) and (b), as so amended, are set out in the Table to this section.

TABLE

(a) A deduction shall not be allowed under this section in computing a company’s trading income for any accounting period which ends on or after the 6th day of April, 2001.

(b) Any deduction allowed by virtue of this section in computing the profits or gains of the trade of farming for an accounting period of a person other than a company shall not apply for any purpose of the Income Tax Acts for any year of assessment later than the year 2000-01.

55.—Section 667 of the Principal Act is hereby amended in paragraph (b) of subsection (2) by the substitution for subparagraph (ii) (inserted by the Finance Act, 1998) of the following subparagraph:

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

“(ii) on or after the 6th day of April, 1995, and before the 6th day of April, 2001, for the year of assessment in which the individual becomes a qualifying farmer and for each of the 3 immediately succeeding years of assessment.”.

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Amendment of
Chapter 1 (general)
of Part 20
(companies'
chargeable gains) of
Principal Act.

56.—(1) Part 20 of the Principal Act is hereby amended in Chapter 1—

(a) in section 616(1)—

(i) by the substitution for “of this Part” of “of this Chapter”, and

(ii) by the substitution for paragraphs (a) to (c) of the following paragraphs:

“(a) subject to section 621(1), a reference to a company or companies shall apply only to a company or companies, as limited by subsection (2), being a company or, as the case may be, companies—

(i) where the reference is in this section, which, by virtue of the law of a Member State of the European Communities, is or are resident for the purposes of tax in such a Member State, and for this purpose ‘tax’, in relation to a Member State of the European Communities other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State, and

(ii) where the reference is in the following sections of this Chapter, which is or are resident in the State,

and references to a member or members of a group of companies shall be construed accordingly;

(b) a company is an effective 75 per cent subsidiary of another company (in this paragraph referred to as ‘the parent’) at any time if at that time—

(i) the company is a 75 per cent subsidiary (within the meaning of section 9) of the parent,

(ii) the parent is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the company, and

(iii) the parent would be beneficially entitled to not less than 75 per cent of the assets of the company available for distribution to its equity holders on a winding up,

and sections 413 to 419 shall apply for the purposes of this paragraph as they apply for the purposes of Chapter 5 of Part 12;

(bb) a principal company and all its effective 75 per cent subsidiaries shall form a group, and where a principal company is a member of a group as being itself an effective 75 per cent

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subsidiary that group shall comprise all its Pt.1 S.56
effective 75 per cent subsidiaries;

(c) ‘principal company’ means a company of which another company is an effective 75 per cent subsidiary;”,

(b) in section 616—

(i) by the substitution in subsection (3) for “a 75 per cent subsidiary” (in both places where it occurs) of “an effective 75 per cent subsidiary”, and

(ii) by the substitution in subsection (4) for “75 per cent subsidiary” of “effective 75 per cent subsidiary”,

(c) in section 621(4) by the substitution for “75 per cent subsidiary” of “effective 75 per cent subsidiary”,

(d) by the insertion after section 623 of the following section:

“Transitional provisions in respect of section 623.

623A.—(1) In this section ‘the new definition’ means section 616 as amended by *section 56* of the *Finance Act, 1999*, and ‘the old definition’ means that section as it had effect on the 10th day of February, 1999.

(2) Where—

(a) on the 11th day of February, 1999, a company ceases, for the purposes of section 616 and the provisions of this Part subsequent to that section, to be a member of a group by reason only of the substitution for the old definition of the new definition, and

(b) in consequence of ceasing to be such a member the company would, apart from this section, be treated by virtue of section 623(4) as selling an asset at any time,

the company shall not be treated as selling the asset at that time unless the conditions in subsection (3) become satisfied, assuming for that purpose that the old definition applies.

(3) The conditions referred to in subsection (2) are—

(a) that for the purposes of section 623, the company ceases at any time (in this subsection referred to as the ‘relevant time’) to be a

member of the group referred to in subsection (2)(a),

(b) that, at the relevant time, the company (or an associated company also ceasing to be a member of that group at that time) owns, otherwise than as trading stock, the asset, or property on the acquisition of which a chargeable gain in relation to the asset has been deferred on a replacement of business assets, and

(c) that the time of acquisition of the asset referred to in section 623(2) fell within the period of 10 years ending with the relevant time.”,

(e) by the insertion after section 625 of the following section:

“Transitional provisions in respect of section 625.

625A.—(1) In this section—

‘the subsidiary’ and ‘the chargeable company’ have the same meanings, respectively, assigned to them by 625(1);

‘the new definition’ means section 616 as amended by *section 56* of the *Finance Act, 1999*, and ‘the old definition’ means that section as it had effect on the 10th day of February, 1999.

(2) Where—

(a) on the 11th day of February, 1999, the subsidiary company ceases, for the purposes of section 616 and the provisions of this Part subsequent to that section, to be a member of a group by reason only of the substitution for the old definition of the new definition, and

(b) in consequence of ceasing to be such a member the chargeable company would, apart from this section, be treated by virtue of section 625(2) as selling shares in the subsidiary at any time,

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the chargeable company shall not be treated as selling the shares at that time unless the conditions in subsection (3) become satisfied assuming for that purpose that the old definition applies. Pt.1 S.56

(3) The conditions referred to in subsection (2) are—

(a) that for the purposes of section 625 the subsidiary ceases at any time (in this subsection referred to as ‘the relevant time’) to be a member of the group referred to in subsection (2)(a), and

(b) that the time of the earlier occasion referred to in section 625(1)(a) fell within the period of 10 years ending with the relevant time.”,

and

(f) by the insertion after section 626 of the following section:

“Restriction on set-off of pre-entry losses.

626A.—For the purposes of Part 20, Schedule 18A (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of companies and losses accruing on assets held by any company at such a time) shall apply.”.

(2) This section shall apply—

(a) as respects paragraph (a) of subsection (1), in so far as it relates to section 616(1)(a) of the Principal Act, as respects accounting periods ending on or after the 1st day of July, 1998, and

(b) in any other case as on and from the 11th day of February, 1999.

57.—(1) The Principal Act is hereby amended by the insertion after Schedule 18 of the following new Schedule:

Restriction on set-off of pre-entry losses.

“Section 626A.

SCHEDULE 18A

Restriction on set-off of Pre-entry Losses

Application and construction of Schedule

1. (1) This Schedule shall apply in the case of a company which is or has been a member of a group of companies (in this

Schedule referred to as 'the relevant group') in relation to any pre-entry losses of the company.

(2) In this Schedule 'pre-entry loss', in relation to a company, means—

- (a) an allowable loss that accrued to the company at a time before it became a member of the relevant group in so far as the loss has not been allowed as a deduction from chargeable gains accruing to the company prior to that time, or
- (b) the pre-entry proportion of an allowable loss accruing to the company on the disposal of a pre-entry asset,

and for the purposes of this Schedule the pre-entry proportion of an allowable loss shall be calculated in accordance with paragraph 2.

(3) In this Schedule 'pre-entry asset', in relation to a disposal means, subject to subparagraph (4), an asset which was held by a company at the time immediately before the company became a member of the relevant group.

(4) An asset is not a pre-entry asset in relation to a disposal where—

- (a) the company which held the asset at the time the company became a member of the relevant group is not the company which makes the disposal, and
- (b) since that time the asset has been disposed of otherwise than by a disposal to which section 617 applies,

but, without prejudice to subparagraph (8), where, on a disposal to which section 617 does not apply, an asset would cease to be a pre-entry asset by virtue of this subparagraph and the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

(5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which the asset is a pre-entry asset became a member of the relevant group and for the purposes of this Schedule—

- (a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to the company if the asset would be a pre-entry asset by reference to the company in respect of any one of those occasions, and
- (b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in clause (a), are references to the later or latest of those occasions.

(6) Where—

- (a) the principal company of a group of companies (in this paragraph referred to as ‘the first group’) has at any time become a member of another group (in this paragraph referred to as ‘the second group’) so that the two groups are treated as the same by virtue of subsection (3) of section 616, and
- (b) the second group, together in pursuance of the said subsection (3) with the first group, is the relevant group,

then, except where subparagraph (7) applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of the said subsection (3) at the times when they became members of the first group.

(7) This subparagraph applies where—

- (a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group, and

(b) the company which is the principal company of the relevant group immediately after that time—

(i) was not the principal company of any group immediately before that time, and

(ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

(8) For the purposes of this Schedule—

(a) an asset (in this subparagraph referred to as ‘the first asset’) acquired or held by a company at any time and an asset (in this subparagraph referred to as ‘the second asset’) held at a later time by the company (or by any company which is or has been a member of the same group of companies as the company) shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset, and

(b) where—

(i) an asset is treated (whether by virtue of clause (a) or otherwise) as the same as an asset held by a company at a later time, and

(ii) the first asset would have been a pre-entry asset in relation to the company,

the second asset shall also be treated as a pre-entry asset in relation to the company,

and clause (a) shall apply in particular where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.

(9) In determining for the purposes of this Schedule whether an allowable loss accruing to a company on a disposal under section 719 or 738(4)(a) is a loss that accrued before the company became a member of the relevant group, the provisions of section 720 or 738(4)(b), as the case may be, shall be disregarded.

Calculation of pre-entry loss by reference to market value Pt.1 S.57

2. (1) Where an allowable loss accrues on the disposal by a company of any pre-entry asset, the pre-entry proportion of that loss shall be whichever is the smaller of the amounts mentioned in subparagraph (2).

(2) The amounts referred to in subparagraph (1) are—

- (a) the amount of the allowable loss which would have accrued if the asset had been disposed of at the relevant time at its market value at that time, and
- (b) the amount of the allowable loss accruing on the disposal mentioned in subparagraph (1).

Gains from which pre-entry losses are to be deductible

3. (1) Notwithstanding section 78(2) a pre-entry loss that accrued to a company on a disposal before the company became a member of the relevant group shall only be deductible from a chargeable gain accruing to the company where the gain is one accruing—

- (a) on a disposal made by the company before the date (in this paragraph referred to as 'the entry date') on which the company became a member of the relevant group and made in the same accounting period in which the entry date falls,
- (b) on the disposal of an asset which was held by the company immediately before the entry date, or
- (c) on the disposal of an asset which—
 - (i) was acquired by the company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition, and
 - (ii) since its acquisition from the person has not been used or held for any purposes other than those of a trade which was being carried on by the company at the time

immediately before the entry date and which continued to be carried on by the company until the disposal.

(2) Notwithstanding section 78(2) the pre-entry proportion of an allowable loss accruing to a company on the disposal of a pre-entry asset shall only be deductible from a chargeable gain accruing to the company where—

- (a) the gain is one accruing on a disposal made by the company before the entry date and made in the same accounting period in which the entry date falls and the company is the one (in this subparagraph referred to as 'the initial company') by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset,
- (b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before the company became a member of the relevant group, or
- (c) the gain is one accruing on the disposal of an asset which—
 - (i) was acquired by the initial company (whether before or after the initial company became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group, and
 - (ii) since its acquisition from the person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before the entry date, by the initial company and which continued to be carried on by the initial company until the disposal.

(3) Where 2 or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before those companies became members of the relevant group, then—

- (a) an asset shall be treated for the purposes of subparagraph (1)(b) as held, immediately before the company became a member of the relevant group, by the company to which the pre-entry loss in question accrued if the company is one of those companies and the asset was in fact so held by another of those companies,
- (b) two or more assets shall be treated for the purposes of subparagraph (2)(b) as assets held by the same company immediately before the company became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company, and
- (c) the acquisition of an asset shall be treated for the purposes of subparagraphs (1)(c) and (2)(c) as an acquisition by the company to which the pre-entry loss in question accrued if the company is one of those companies and the asset was in fact acquired (whether before or after those companies became members of the relevant group) by another of those companies.

Change of a company's nature

4. (1) Where—

- (a) within any period of 3 years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by the company, or
- (b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, the company becomes a member of a group of companies,

the trade carried on before the change mentioned in clause (a), or, as the case may be, the trade mentioned in clause (b), shall be disregarded for the purposes of subparagraphs (1)(c) and (2)(c) of paragraph 3 in relation to any time before the company became a member of the group in question.

(2) In subparagraph (1) the reference to a major change in the nature or conduct of a trade includes a reference to—

- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade, or
- (b) a major change in customers, markets or outlets of the trade,

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of 3 years mentioned in subparagraph (1)(a).

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of a group of companies (but not more than 3 years after), an assessment to give effect to this paragraph shall not be out of time if made within 6 years from that time or the latest such time.

Companies changing groups on certain transfers of shares etc.

5. For the purposes of this Schedule, where—

- (a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of the company or any other company, and
- (b) that disposal is one on which, by virtue of any provision of the Tax Acts or the Capital Gains Tax Acts, neither a gain nor a loss would accrue,

this Schedule shall apply in relation to the losses that accrued to the company before that time and the assets held by the company at that time as if any time when the company was a member of the first group were included in the period during which the company is treated as having been a member of the second group.”.

(2) This section shall apply in respect of a company which becomes a member of a group of companies on or after the 1st day of March, 1999.

Amendment of section 746 (offshore income gains accruing to persons resident or domiciled abroad) of Principal Act.

58.—(1) Section 746 of the Principal Act is hereby amended—

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

“(1) Subject to subsection (2), sections 579 and 579A shall apply in relation to their application to offshore income gains as if—

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- (a) for any references to a chargeable gain there were substituted a reference to an offshore income gain, Pt.1 S.58
- (b) in subsection (2) of section 579 and subsection (4) of section 579A for 'the Capital Gains Tax Acts' there were substituted 'the Tax Acts',
- (c) in subsection (2) of section 579 and subsection (3) of section 579A for 'capital gains tax under section 31' there were substituted 'income tax by virtue of section 745', and
- (d) in subsection (5) of section 579 and subsection (9) of section 579A—
- (i) for 'any capital gains tax payable' there were substituted 'any income tax or corporation tax payable', and
 - (ii) for 'for the purposes of income tax' there were substituted 'for the purposes of income tax, corporation tax'.

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

“(2A) Where in any year of assessment—

- (a) under section 579A(4), as it applies apart from subsection (1), a chargeable gain is to be attributed to a beneficiary, and
- (b) under section 579A(4), as applied by subsection (1), an offshore income gain is also to be attributed to the beneficiary,

section 579A shall apply as if it required offshore income gains to be attributed before chargeable gains.”,

(c) in subsection (3), by the substitution for paragraphs (b) and (c) of the following paragraphs:

- “(b) for the reference in subsection (9) of that section to capital gains tax there were substituted a reference to income tax or corporation tax, and
- (c) paragraphs (a) and (b) of subsection (7), and subsection (11), of that section were deleted.”,

(d) in subsection (4), by the substitution for paragraph (b) of the following paragraph:

- “(b) for 'capital gains tax under sections 579 to 579F or section 590' there were substituted 'income tax or corporation tax under sections 579 to 579F or section 590, as applied by section 746'.”

and

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(e) in subsections (5) and (6) by the substitution for “sections 806 and 807” of “sections 806, 807 and 807A”, in each place where it occurs.

(2) This section shall apply as on and from the 11th day of February, 1999.

Amendment of Chapter 1 (purchase and sale of securities) of Part 28 of Principal Act.

59.—(1) Part 28 of the Principal Act is hereby amended in Chapter 1 by the insertion after section 751 of the following sections:

“Exchange of shares held as trading stock.

751A.—(1) In this section—

‘new holding’, in relation to original shares, and ‘original shares’ have, respectively, the same meanings as in section 584(1).

(2) Subsections (4) and (5) shall apply where a transaction to which this section applies occurs in relation to any original shares—

(a) to which a person carrying on a business consisting wholly or partly of dealing in securities is beneficially entitled, and

(b) which are such that a profit on their sale would form part of the trading profits of that business.

(3) This section applies to any transaction, being a disposal of original shares which, if the original shares were not such as are mentioned in subsection (2) would result in the disposal not being treated as a disposal by virtue of sections 584 to 587; but does not apply to any transaction in relation to which section 751B applies.

(4) Subject to subsection (5), in making any computation in accordance with the provisions of the Tax Acts applicable to trading profits chargeable to tax under Case I of Schedule D—

(a) the transaction to which this section applies shall be treated as not involving any disposal of the original shares, and

(b) the new holding shall be treated as the same asset as the original shares.

(5) Where, under a transaction to which this section applies, the person concerned receives or becomes entitled to receive any consideration in addition to the new holding, subsection (4) shall have effect as if the references to the original shares were references to the proportion of them which the market value of the new holding at the time of the transaction bears to the aggregate of that value and the market value at that time (or, if it is cash, the amount) of that consideration.

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(6) Subsections (4) and (5) shall have effect with the necessary modifications in relation to any computation made for the purposes of section 707(4) in a case where the original shares held by the company concerned and the new holding are treated as the same asset by virtue of any of sections 584 to 587. Pt.1 S.59

Exchange of Irish Government bonds.

751B.—(1) In this section—

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

‘the exchange’ in relation to an investor, means the exchange of old securities for new securities under the Exchange Programme in Irish Government bonds as designated by the National Treasury Management Agency;

‘investor’ means any person who as beneficial owner of securities exchanges them for new securities under the exchange;

‘last payment day’ in relation to old securities, means the last day, before the day on which the exchange takes place, on which interest is payable in respect of the old securities; and in a case where a payment of such interest may be made on a number of days, that interest shall be treated as payable on the first of those days; but if there has not been any day upon which interest in respect of old securities has been payable before the day on which the exchange takes place, the last payment day means the day of issue of the old securities;

‘old securities’ means the first-mentioned securities in the definition of ‘investor’;

‘new securities’ means the securities issued to an investor in exchange for old securities under the exchange;

‘securities’ means securities to which section 36 applies.

(2) (a) Subsections (3) and (5) shall apply as respects an investor who is a person carrying on a trade or business which consists wholly or partly of dealing in securities in respect of which any profits or gains are chargeable to tax under Case I of Schedule D.

(b) Subsection (6) shall apply as respects any investor other than an investor referred to in paragraph (a).

(3) There shall be computed for the chargeable period in which the exchange by an investor to whom this subsection applies takes place, an amount of tax (in this section referred to as ‘the

deferred tax') where the deferred tax is found by the formula—

- (a) in a case where the investor is chargeable to tax in the chargeable period in respect of interest received in the chargeable period—

$$A - B - C, \text{ and}$$

- (b) in any other case—

$$A - B$$

where—

A is the amount of tax which, apart from this section, would finally fall to be borne by the investor for that chargeable period;

B is the amount of tax which, apart from this section, would finally fall to be borne by the investor for that chargeable period if the exchange were not taken into account in computing that tax, but, in a case to which paragraph (b) applies, includes the tax on interest which has accrued in respect of old securities from the beginning of that chargeable period, or the day on which the old securities were acquired by the investor, whichever is later, to the day on which the exchange took place; and

C is the amount representing the tax on accrued interest for that chargeable period in respect of old securities which is included in A.

(4) For the purposes of subsection (3) the accrued interest in respect of old securities is the interest accrued on such securities from—

- (a) the last payment day in respect of the old securities, or
- (b) the day on which the old securities were acquired by an investor,

whichever is later.

(5) Where an investor to whom this section applies so elects, the amount of tax which, apart from this subsection, finally falls to be borne for the chargeable period in which the exchange takes place, shall be reduced by the amount of the deferred tax and the amount of the deferred tax shall be deemed to be an amount of tax which finally falls to be borne for the chargeable period (in this subsection referred to as 'the later chargeable period') in which the new securities are disposed of in addition to any tax, which apart from this subsection, finally falls to be borne for the later chargeable period and the provisions of Part 41 shall apply accordingly.

[1999.]

Finance Act, 1999.

[No. 2.]

(6) (a) Subject to paragraph (b), the amount of capital gains tax, which apart from this subsection, would be chargeable on chargeable gains accruing to an investor to whom this subsection applies, on the disposal of old securities, after such chargeable gains have been reduced by any allowable losses under section 31, shall, if the investor so elects, be deemed to be an amount of capital gains tax chargeable on chargeable gains which are deemed to accrue to the investor in the chargeable period (in this subsection referred to as 'the later chargeable period') in which the new securities are disposed of (and not in any other chargeable period) in addition to any capital gains tax chargeable on chargeable gains accruing to the investor in the later chargeable period and the provisions of Part 41 shall apply accordingly.

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(b) Section 815 shall apply to the disposal of the old securities to which paragraph (a) applies as if—

(i) there were inserted, in subsection (3)(b) of that section after 'profits of the trade', 'unless the trade consists wholly or partly of a life business the profits of which are not assessed to corporation tax under Case I of Schedule D for that accounting period', and

(ii) subsection (3)(c) of that section were deleted.

(7) The election referred to in subsections (5) and (6) shall be made within a period of two years after the end of the chargeable period in which the disposal of the old securities takes place."

(2) This section shall apply—

(a) as respects section 751A inserted in the Principal Act by subsection (1), as on and from the 11th day of February, 1999,

(b) as respects section 751B inserted in the Principal Act by subsection (1), to an exchange of old securities for new securities (within the meaning of the said section 751B) in the period beginning on the 11th day of February, 1999, and ending before the 1st day of January, 2000.

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

Amendment of Part 33 (anti-avoidance) of Principal Act.

(a) in section 806—

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- (i) in subsection (1) by the substitution for “In this section—” of “In this section and section 807A—”,
- (ii) in subsection (2) by the substitution for “For the purposes of this section—” of “For the purposes of this section and section 807A—”,

and

- (iii) in subsection (5) by the insertion after paragraph (b) of the following paragraph:

“(c) For the purposes of paragraph (b), there shall be treated as a capital sum which an individual receives or is entitled to receive any sum which a third person receives or is entitled to receive at the individual’s direction or by virtue of the assignment by the individual of the individual’s right to receive it.”,

- (b) in section 807 by the insertion after subsection (4) of the following subsection:

“(5) An individual who is domiciled out of the State shall not be chargeable to income tax in respect of any income deemed to be the individual’s by virtue of section 806 if the individual would not, by reason of being so domiciled, have been chargeable to income tax in respect of it if it had in fact been the individual’s income.”,

- (c) by the insertion after section 807 of the following section:

“Liability of non-transferors.

807A.—(1) This section shall apply where—

- (a) by virtue or in consequence of a transfer of assets, either alone or in conjunction with associated operations, income becomes payable to a person who is resident or domiciled out of the State, and
- (b) an individual who is resident or ordinarily resident in the State and who is not liable to tax under section 806 by reference to the transfer, receives a benefit provided out of assets which are available for the purpose by virtue or in consequence of the transfer or of any associated operations.

(2) Subject to the provisions of this section, the amount or value of any

such benefit as is mentioned in subsection (1), if not otherwise chargeable to income tax in the hands of the recipient, shall—

- (a) to the extent to which it falls within the amount of relevant income of years of assessment up to and including the year of assessment in which the benefit is received, be treated for all the purposes of the Income Tax Acts as the income of the individual for that year of assessment,
- (b) to the extent to which it is not by virtue of this subsection treated as the income of the individual for that year of assessment and falls within the amount of relevant income of the next following year of assessment, be treated for those purposes as the individual's income for the next following year of assessment,

and so on for subsequent years of assessment, taking the reference in paragraph (b) to the year of assessment mentioned in paragraph (a) as a reference to that year of assessment and any other year of assessment before the subsequent year of assessment in question.

(3) Subject to subsection (8), the relevant income of a year of assessment, in relation to an individual, is any income which arises in that year of assessment to a person resident or domiciled out of the State and which by virtue or in consequence of the transfer or associated operations referred to in subsection (1) can directly or indirectly be used for providing a benefit for the individual or for enabling a benefit to be provided for the individual.

(4) Income tax chargeable by virtue of this section shall be charged under Case IV of Schedule D.

(5) An individual who is domiciled out of the State shall not, in respect of any benefit not received in the State, be chargeable to tax under this

section by reference to relevant income which is such that, if the individual had received it, the individual would not, by reason of the individual being so domiciled, have been chargeable to income tax in respect of it, and section 72 shall apply for the purposes of this subsection as it would apply for the purposes of section 71 (3) if the benefit were income arising from securities and possessions in any place outside the State.

(6) Where—

(a) the whole or part of the benefit received by an individual in a year of assessment is a capital payment within the meaning of section 579A or 579F(2) (by virtue of not falling within the amount of relevant income referred to in subsection (2)(a)), and

(b) chargeable gains are by reason of that payment treated under either section 579A or 579F(2) as accruing to the individual in that or a subsequent year of assessment,

subsection (2)(b) shall apply in relation to any year of assessment (in this subsection referred to as 'a year of charge') after one in which chargeable gains have been so treated as accruing to the individual, as if a part of the amount or value of the benefit corresponding to the amount of those gains had been treated under that subsection as income of the individual for a year of assessment before the year of charge.

(7) Subsections (8) and (9) of section 806 shall apply for the purposes of this section as they apply for the purposes of subsections (4) and (5) of that section.

(8) This section shall apply irrespective of when the transfer or associated operations referred to in subsection (1) took place, but shall apply only to relevant income arising on or after the 11th day of February, 1999."

[1999.]

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[No. 2.]

(d) in section 808 by the substitution, in subsections (2) and (3)(b), for “807 and 809” of “807, 807A and 809” in each place where it occurs, and Pt.1 S.60

(e) in sections 809 and 810 by the substitution for “section 806” of “sections 806 and 807A” in each place where it occurs.

(2) (a) *Subparagraphs (i) and (ii) of paragraph (a) and paragraphs (c), (d) and (e), of subsection (1) shall apply as on and from the 11th day of February, 1999.*

(b) *Subparagraph (iii) of paragraph (a) of subsection (1) shall apply as respects any sum which a third person referred to in that subparagraph receives or becomes entitled to receive on or after the 11th day of February, 1999.*

(c) *Paragraph (b) of subsection (1) shall be deemed to have applied as on and from the 12th day of February, 1998.*

61.—Section 481 of the Principal Act is hereby amended—

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

(a) in subsection (1) in the definition of “qualifying period” by the substitution—

(i) in paragraph (a) for “22nd day of January, 1999” of “5th day of April, 2000”, and

(ii) in paragraph (b) for “5th day of April, 1999” of “5th day of April, 2000”,

(b) in subsection (4)—

(i) in paragraph (a) by the substitution for “Subject to paragraph (b), where in any period of 12 months (in paragraph (b) referred to as a ‘12 month period’) ending on an anniversary of the 22nd day of January, 1996, the amount or the aggregate amount of the relevant investments made,” of the following:

“Subject to paragraph (b), where in the period—

(I) being a period of 12 months (in paragraph (b) referred to as a ‘12 month period’) ending on an anniversary of the 22nd day of January, 1996, or

(II) commencing on the 23rd day of January, 1999, and ending on the 5th day of April, 2000 (in paragraph (b) referred to as the ‘specified period’),

the amount or the aggregate amount of the relevant investments made,”,

and

(ii) in paragraph (b)(ii) by the insertion after “any 12 month period” of “, or in the specified period,”,

(c) in subsection (8) by the substitution for “1998-99” of “1999-2000”, and

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(d) in subsection (9) by the substitution for “1998-99” of “1999-2000”.

Amendment of section 723 (special investment policies) of Principal Act.

62.—(1) Section 723 of the Principal Act is hereby amended—

(a) in subsection (1), after the definition of “qualifying shares” by the insertion of the following definition:

“ ‘relevant period’ means—

(a) the period commencing on the date on which the first payment was received by an assurance company in respect of a special investment policy and ending on the fifth anniversary of that date, and

(b) each subsequent period of five years;”

(b) in subsection (3)(c), by the substitution for “at any time on or after the fifth anniversary of the date on which the first payment was received by it in respect of the policy” of “on the date on which each relevant period ends”, and

(c) by the substitution of the following subsection for subsection (6):

“(6) The corporation tax chargeable on any profits on which corporation tax falls finally to be borne which are attributable to the special investment fund of an assurance company shall be the amount of such tax, for the purposes of the Tax Acts other than section 707(4), before it is reduced by any credit, relief or other deduction under the Tax Acts apart from this section, which is 20 per cent of those profits; but in computing profits for the purposes of this subsection, section 78(2) shall apply as if the rate per cent of capital gains tax specified in section 28(3) were the rate per cent of corporation tax specified in section 21(1).”.

(2) (a) *Paragraphs (a) and (b) of subsection (1)* shall be deemed to have applied as on and from the 1st day of February, 1993.

(b) *Paragraph (c) of subsection (1)* shall apply as respects accounting periods beginning or treated as beginning on or after the 6th day of April, 1999.

(c) For the purposes of *paragraph (b)*, where an accounting period of a company begins before the 6th day of April, 1999, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the 5th day of April, 1999, and the other beginning on the 6th day of April, 1999, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.

[1999.]

Finance Act, 1999.

[No. 2.]

63.—(1) Section 737 of the Principal Act is hereby amended—

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Amendment of section 737 (special investment schemes) of Principal Act.

(a) in subsection (1)(a), after the definition of “market value” by the insertion of the following definition:

“ ‘relevant period’ means—

(a) the period commencing on the date on which the first payment was made by or on behalf of an individual in respect of special investment units owned, whether jointly or otherwise, by that individual and ending on the fifth anniversary of that date, and

(b) each subsequent period of five years;”

(b) in subsection (3)(a), by the substitution in subparagraph (iii) for “at any time on or after the fifth anniversary of the date on which the first payment was made by or on behalf of that individual in respect of those units” of “on the date on which each relevant period ends”, and

(c) in subsection (6), by the substitution of the following paragraph for paragraph (c):

“(c) Any income tax or capital gains tax chargeable in accordance with paragraph (b) shall be the amount of such tax, before it is reduced by any credit, relief or other deduction under the Tax Acts or the Capital Gains Tax Acts apart from this section, which is 20 per cent of income arising or chargeable gains accruing, as the case may be, to the scheme.”.

(2) (a) *Paragraphs (a) and (b) of subsection (1) shall be deemed to have applied as on and from the 1st day of February, 1993.*

(b) *Paragraph (c) of subsection (1) shall apply as on and from the 6th day of April, 1999.*

64.—(1) Section 738(2) of the Principal Act is hereby amended in paragraph (d) by the substitution for subparagraph (i) of the following subparagraph:

Amendment of section 738 (undertakings for collective investment) of Principal Act.

“(i) the capital gains tax which is chargeable on the chargeable gains accruing in a year of assessment to the undertaking shall be the amount of such tax, before it is reduced by any credit, relief or other deduction under any provision, other than under this section, of the Tax Acts or the Capital Gains Tax Acts, which is the standard rate, for the year of assessment, of the chargeable gains accruing to the undertaking, and”.

(2) This section shall apply in respect of chargeable gains accruing in the year of assessment 1998-99 and subsequent years of assessment.

Pt.1

Amendment of
section 838 (special
portfolio investment
accounts) of
Principal Act.

65.—(1) Section 838 of the Principal Act is hereby amended—

(a) in subsection (1)(a)—

(i) in the definition of “relevant investment” by the insertion—

(I) after “means an investment in” of “fully paid-up”, and

(II) after “acquired by a designated broker” of “at market value”, and

(ii) by the insertion after the definition of “relevant investment” of the following definition:

“ ‘relevant period’ means—

(a) the period commencing on the date on which the first specified deposit was made by an individual in respect of a relevant investment and ending on the fifth anniversary of that date, and

(b) each subsequent period of five years;”,

(b) in subsection (2)(c), by the substitution for “at any time on or after the fifth anniversary of the date on which the first specified deposit was made by an individual in respect of that relevant investment” of “on the date on which each relevant period ends”,

(c) in subsection (3), by the substitution for “; but that Chapter shall so apply as if, in relation to relevant interest payable in respect of a relevant deposit or relevant deposits held in a special savings account, the rate of appropriate tax were 10 per cent”, of “; and in particular the rate of appropriate tax specified in section 256(1) in relation to relevant interest payable in respect of a relevant deposit or relevant deposits held in a special savings account shall apply to special portfolio investment accounts”, and

(d) in subsection (4)(c), by the substitution for “1028(4)” of “1028(5)”.

(2) This section shall—

(a) be deemed to have applied, as respects *paragraph (a)(ii) and paragraph (b) of subsection (1)*, as on and from the 1st day of February, 1993,

(b) be deemed to have applied, as respects *paragraphs (a)(i), and (d) of subsection (1)*, as on and from the 1st day of December, 1998, and

(c) apply, as respects *paragraph (c) of subsection (1)*, as on and from the 6th day of April, 1999.

[1999.]

Finance Act, 1999.

[No. 2.]

66.—Section 839 of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

Pt.1

Amendment of section 839 (limits to special investments) of Principal Act.

“(3) So long as an individual, whether married or not, does not have a beneficial interest in an investment of a class mentioned in subsection (1) other than—

- (a) a beneficial interest, whether or not a joint interest, in one investment, or
- (b) a joint beneficial interest in 2 investments of a class (which need not be the same class) mentioned in subsection (1),

then, sections 264, 723, 737 and 838 shall apply to that one investment or those 2 investments, as the case may be, as if every reference to £50,000 in those sections were a reference to £75,000.”.

67.—(1) Section 832 of the Principal Act is hereby amended—

Amendment of section 832 (provisions in relation to Convention for reciprocal avoidance of double taxation in the State and the United Kingdom of income and capital gains) of Principal Act.

- (a) in subsection (1)—
 - (i) in the definition of “the Convention” by the substitution for “(S.I. No. 319 of 1976);” of “(S.I. No. 319 of 1976).”, and
 - (ii) by the deletion of the definition of “dividend”, and
- (b) by the deletion of subsection (2).

(2) This section shall—

- (a) apply as on and from the 6th day of April, 1999, as respects income tax, and
- (b) be deemed to apply as on and from the 1st day of January, 1999, as respects corporation tax.

Chapter 5

Savings-Related Share Option Schemes and Employee Share Schemes

68.—The Principal Act is hereby amended—

Savings-related share option schemes.

- (a) in Part 17, by the insertion after Chapter 2 of the following:

“Chapter 3

Approved savings-related share option schemes.

519A.—(1) (a) The provisions of this section shall apply where an individual obtains a right to acquire shares in a body corporate—

- (i) by reason of the individual’s office or employment as a director or employee of that or any other body corporate, and

(ii) that individual obtains that right in accordance with the provisions of a savings-related share option scheme approved under Schedule 12A on or after the 6th day of April, 1999, and in respect of which approval has not been withdrawn.

(b) This section shall be construed together with Schedule 12A.

(2) Tax shall not be chargeable under any provision of the Tax Acts in respect of the receipt of the right referred to in subsection (1).

(3) Subject to subsection (4) if the individual exercises the right in accordance with the provisions of the scheme at a time when it is approved tax shall not be chargeable under any provision of the Tax Acts in respect of any gain realised by the exercise of the right.

(4) Subsection (3) shall not apply in respect of a right obtained by a person under a scheme which is exercised within 3 years of its being obtained by virtue of a provision included in a scheme pursuant to paragraph 22 of Schedule 12A.

(5) In this section 'savings-related share option scheme' has the meaning assigned to it by Schedule 12A.

Costs of establishing savings-related share option schemes.

519B.—(1) This section shall apply to a sum expended on or after the 6th day of April, 1999, by a company in establishing a savings-related share option scheme which the Revenue Commissioners approve of in accordance with the provisions of Schedule 12A and under which no employee or director obtains rights before such approval is given.

(2) A sum to which this section applies shall 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

(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.

[1999.]

Finance Act, 1999.

[No. 2.]

(3) In a case where—

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(a) subsection (2) applies, and

(b) the approval is given after the end of the period of 9 months beginning on the day following the end of the accounting period in which the sum is expended,

then, for the purpose of subsection (2), the sum shall be treated as expended in the accounting period in which the approval is given and not the accounting period mentioned in paragraph (b).

Interest, etc. under certified contractual savings schemes.

519C.—(1) In this section—

‘qualifying savings institution’ means any of the following persons—

(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,

(b) a building society within the meaning of section 256,

(c) a trustee savings bank within the meaning of the Trustee Savings Banks Act, 1989,

(d) ACC Bank plc,

(e) ICC Bank plc,

(f) ICC Investment Bank Limited,

(g) the Post Office Savings Bank,

(h) a credit union within the meaning of the Credit Union Act, 1997, or

(i) such other person as the Minister for Finance may by order prescribe.

(2) Any terminal bonus or interest paid by a qualifying savings institution to an individual under a certified contractual savings scheme shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.

(3) Any terminal bonus or interest paid by a qualifying savings institution under a certified contractual savings scheme shall not, where the qualifying savings institution is a relevant deposit taker within the meaning of section 256, be relevant interest for the purposes of that section and accordingly shall not be subject to deduction of appropriate tax under section 257.

(4) In this section 'certified contractual savings scheme' means a scheme—

(a) which provides for periodical contributions to be made by individuals for a specified period to a qualifying savings institution where the deposit represented by such contributions would, but for subsection (3), constitute a relevant deposit within the meaning of section 256 if the qualifying savings institution were a relevant deposit taker within the meaning of that section,

(b) where the individuals referred to in paragraph (a)—

(i) are eligible to participate in, that is to say, to obtain and exercise rights under, an approved savings-related share option scheme, and

(ii) whose contributions under the scheme are to be used in accordance with paragraph 17 of Schedule 12A,

and

(c) which is certified by the Revenue Commissioners as qualifying for exemption under this section by reference to requirements specified by the Minister for Finance in accordance with Schedule 12B.

(5) Schedule 12B to this Act which contains provisions supplementing this section shall have effect.

(6) This section shall apply in relation to any terminal bonus or interest paid by a qualifying savings institution on or after the 6th day of April, 1999, under a certified contractual savings scheme.”,

and

(b) by the insertion after Schedule 12 of the following:

“Section 519A. SCHEDULE 12A

Approved Savings-Related Share Option Schemes

Interpretation

1. (1) For the purposes of this Schedule—

‘approved’ in relation to a scheme, means approved under paragraph 2;

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Finance Act, 1999.

[No. 2.]

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'associated company' has the same meaning as in section 432, except that, for the purposes of paragraph 24, subsection (1) of that section shall have effect with the omission of the words 'or at any time within one year previously';

'bonus date' has the meaning assigned to it by paragraph 18;

'control' has the same meaning as in section 432;

'full-time director' has the same meaning as in section 250;

'grantor', in relation to a scheme, means the company which has established the scheme;

'group scheme' and, in relation to such a scheme, 'participating company' have the meanings given by subparagraphs (3) and (4), respectively, of paragraph 2;

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

'savings-related share option scheme' means a scheme approved by the Revenue Commissioners in accordance with this Schedule and which approval has not been withdrawn;

'scheme shares' has the meaning assigned to it by paragraph 10;

'shares' includes stock.

(2) Section 10 shall apply for the purposes of this Schedule.

(3) For the purposes of this Schedule, a company is a member of a consortium that owns another company if it is one of not more than 5 companies which between them beneficially own not less than 75 per cent of the other company's ordinary share capital and each of which beneficially owns not less than 5 per cent of that capital.

(4) For the purposes of this Schedule, the question whether one company is controlled by another shall be determined in accordance with section 432.

Approval of schemes

2. (1) On the application of a body corporate (in this Schedule referred to as 'the grantor') which has established a savings-related share option scheme, the Revenue Commissioners shall approve the scheme if they are satisfied that it fulfils the requirements of this Schedule.

(2) An application under subparagraph (1) shall be made in writing and contain such particulars and be supported by such evidence as the Revenue Commissioners may require.

(3) Where the grantor has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control and in this Schedule a scheme which is expressed so to extend is referred to as a 'group scheme'.

(4) In relation to a group scheme, 'participating company' means the grantor or any other company to which for the time being the scheme is expressed to extend.

3. (1) The Revenue Commissioners shall not approve a scheme under this Schedule if it appears to them that it contains features which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of rights to acquire shares.

(2) The Revenue Commissioners shall be satisfied—

(a) that there are no features of the scheme other than any which are included to satisfy requirements of this Schedule which have or would have the effect of discouraging any description of employees who fulfil the conditions in paragraph 9(1) from actually participating in the scheme, and

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

(3) For the purposes of subparagraph (2), 'a group of companies' means a company and any other companies of which it has control.

4. (1) If, at any time after the Revenue Commissioners have approved a scheme, any of the requirements of this Schedule cease to be satisfied or the grantor fails to provide information requested by the Revenue Commissioners under paragraph 6, the Revenue Commissioners may withdraw the approval with effect from that time or such later time as the Revenue Commissioners may specify but where rights obtained under a savings-related share option scheme before the withdrawal of approval from the scheme under this paragraph are exercised after the withdrawal, section 519A(3) shall apply in respect of the exercise as if the scheme were still approved.

(2) If an alteration is made in the scheme at any time after the Revenue Commissioners have approved the scheme, the approval shall not have effect after the date of the alteration unless the Revenue Commissioners have approved the alteration.

5. If the grantor is aggrieved by—

- (a) the failure of the Revenue Commissioners to approve the scheme or to approve an alteration in the scheme,
- (b) the withdrawal of approval, or
- (c) the failure of the Revenue Commissioners to decide that a condition subject to which the approval has been given is satisfied,

it may, by notice in writing given to the Revenue Commissioners within 30 days from the date on which it is notified of the Revenue Commissioners' decision, require the matter to be determined by the Appeal Commissioners, and the Appeal Commissioners shall hear and determine the matter in like manner as an appeal made to them against an assessment and all the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

Information

6. The Revenue Commissioners may by notice in writing require any person to furnish them, within such time as the Revenue Commissioners may direct (not being less than 30 days), with such information as the Revenue Commissioners think necessary for the performance of their functions under this Schedule, and which the person to whom the notice is addressed has or can reasonably obtain, including in particular information—

- (a) to enable the Revenue Commissioners to determine—
 - (i) whether to approve a scheme or withdraw an approval already given, or
 - (ii) the liability to tax, including capital gains tax, of any person who has participated in a scheme, and
- (b) in relation to the administration of a scheme and any alteration of the terms of a scheme.

7. The Revenue Commissioners may nominate any of their officers, including an inspector, to perform any acts and discharge any functions authorised by this Schedule to be performed or discharged by them.

Eligibility

8. (1) The scheme shall not provide for any person to be eligible to participate in it, that is to say, to obtain and exercise rights under it at any time if at that time that person has, or has within the preceding 12 months had, a material interest in a close company which is—

(i) a company the shares of which may be acquired pursuant to the exercise of rights obtained under the scheme, or

(ii) a company which has control of such a company or is a member of a consortium which owns such a company.

(2) Subparagraph (1) shall apply in relation to a company which would be a close company but for section 430(1)(a) or 431.

(3) (a) In this paragraph, 'close company' has the meaning assigned to it by section 430.

(b) For the purpose of this paragraph—

(i) subsection (3) of section 433 shall apply—

(I) in a case where the scheme in question is a group scheme, with the substitution of a reference to all participating companies for the first reference to the company in paragraph (c)(ii) of that subsection, and

(II) with the substitution of a reference to 15 per cent for the reference in that paragraph to 5 per cent, and

(ii) section 437(2) shall apply, with the substitution of a reference to 15 per cent for the reference in that section to 5 per cent, for the purpose of determining whether a person has or had a material interest in a company.

9. (1) Subject to paragraph 8, every person who—

(a) is an employee or a full-time director of the grantor or, in the case of a group scheme, a participating company,

(b) has been such an employee or director at all times during a qualifying period not exceeding three years, and

(c) is chargeable to tax in respect of that person's office or employment under Schedule E,

shall be eligible to participate in the scheme, that is to say, to obtain and exercise rights under it, on similar terms.

(2) For the purposes of subparagraph (1), the fact that the rights to be obtained by the persons participating in a scheme vary according to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that they are not eligible to participate in the scheme on similar terms.

(3) Except as provided by paragraph 20 or pursuant to such a provision as is referred to in paragraph 22(1)(e) or (f), a person shall not be eligible to participate in the scheme at any time unless he or she is at that time a director or employee of the grantor or, in the case of a group scheme, of a participating company.

Conditions as to the shares

10. The scheme shall provide for directors and employees to obtain rights to acquire shares (in this Schedule referred to as 'scheme shares') which satisfy the requirements of paragraphs 11 to 15.

11. Scheme shares shall form part of the ordinary share capital of—

- (a) the grantor,
- (b) a company which has control of the grantor, or
- (c) a company which either is, or has control of, a company which—
 - (i) is a member of a consortium which owns either the grantor or a company having control of the grantor, and
 - (ii) beneficially owns not less than 15 per cent of the ordinary share capital of the company so owned.

12. Scheme shares shall be—

- (a) shares of a class quoted on a recognised stock exchange,
- (b) shares in a company not under the control of another company, or
- (c) shares in a company which is under the control of a company (other than a company which is, or if resident in the State would be, a close company within the meaning of section 430) whose shares are quoted on a recognised stock exchange.

13. (1) Scheme shares shall be—

- (a) fully paid up,
- (b) not redeemable, and
- (c) not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by subparagraph (2).

(2) Subject to subparagraph (3), the shares may be subject to a restriction imposed by the company's articles of association—

(a) requiring all shares held by directors or employees of the company or of any other company of which it has control to be disposed of on ceasing to be so held, and

(b) requiring all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not, or have ceased to be, such directors or employees to be disposed of when they are acquired.

(3) A restriction is not authorised by subparagraph (2) unless—

(a) any disposal required by the restriction will be by way of sale for a consideration in money on terms specified in the articles of association, and

(b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in subparagraph (2)) may be required to sell them on terms which are the same as those mentioned in paragraph (a).

14. (1) In determining for the purposes of paragraph 13(1)(c) whether scheme shares which are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which such person's freedom to dispose of the shares or of any interest in them or of the proceeds of their sale or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantage to that person or to a person connected with that person.

(2) Subparagraph (1) does not apply to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Code set out in the Listing Rules of the Irish Stock Exchange.

15. Except where scheme shares are in a company whose ordinary share capital consists of shares of one class only, the majority of the issued shares of the same class shall be held by persons other than—

(a) persons who acquired their shares—

(i) in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the grantor or any other company, and

(ii) not in pursuance of an offer to the public,

(b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares as mentioned in subparagraph (a), and

- (c) in a case where the shares fall within paragraph 12(c) and do not fall within paragraph 12(a), companies which have control of the company whose shares are in question or of which that company is an associated company within the meaning of section 432. Pt.1 S.68

Exchange provisions

16. (1) The scheme may provide that if any company ('the acquiring company')—

- (a) obtains control of a company whose shares are scheme shares as a result of making a general offer—
- (i) to acquire the whole of the issued ordinary share capital of the company which is made on a condition such that if it is satisfied the person making the offer will have control of the company, or
- (ii) to acquire all the shares in the company which are of the same class as the scheme shares,
- (b) obtains control of a company whose shares are scheme shares in pursuance of a compromise or arrangement sanctioned by the court under section 201 of the Companies Act, 1963, or
- (c) becomes bound or entitled to acquire shares in a company, under section 204 of the Companies Act, 1963, whose shares are scheme shares,

any participant in the scheme may at any time within the appropriate period, by agreement with the acquiring company, release his or her rights under the scheme (in this paragraph referred to as 'the old rights') in consideration of the grant to him or her of rights (in this paragraph referred to as 'the new rights') which are equivalent to the old rights but relate to shares in a different company (whether the acquiring company itself or some other company falling within subparagraph (b) or (c) of paragraph 11).

(2) In subparagraph (1) 'the appropriate period' means—

- (a) in a case falling within clause (a) of that subparagraph, the period of six months beginning with the time when the person making the offer has obtained control of the company and any condition subject to which the offer is made is satisfied,
- (b) in a case falling within clause (b) of that subparagraph, the period of six months beginning with the time when the court sanctions the compromise or arrangement, and

(c) in a case falling within clause (c) of that subparagraph, the period during which the acquiring company remains bound or entitled as mentioned in that clause.

(3) The new rights shall not be regarded for the purposes of this paragraph as equivalent to the old rights unless—

(a) the shares to which they relate satisfy the conditions specified, in relation to scheme shares, in paragraphs 11 to 15,

(b) the new rights will be exercisable in the same manner as the old rights and subject to the provisions of the scheme as it had effect immediately before the release of the old rights,

(c) the total market value, immediately before the release, of the shares which were subject to the participant's old rights is equal to the total market value, immediately after the grant, of the shares in respect of which the new rights are granted to the participant, and

(d) the total amount payable by the participant for the acquisition of shares in pursuance of the new rights is equal to the total amount that would have been payable for the acquisition of shares in pursuance of the old rights.

(4) Where any new rights are granted pursuant to a provision included in a scheme by virtue of this paragraph they shall be regarded—

(a) for the purposes of section 519A and this Schedule, and

(b) for the purposes of the subsequent application (by virtue of a condition complying with subparagraph (3)(b)) of the provisions of the scheme,

as having been granted at the time when the corresponding old rights were granted.

Exercise of rights

17. The scheme shall provide for the scheme shares to be paid for with moneys not exceeding the amount of repayments made and any interest paid to them under a certified contractual savings scheme within the meaning of subsection (4) of section 519C.

18. Subject to paragraphs 19 to 22, the rights obtained under the scheme must not be capable of being exercised before the bonus date, that is to say, the date on which repayments under the certified contractual savings scheme are due and for the purposes of this paragraph and paragraph 17—

- (a) repayments under a certified contractual savings scheme may be taken as including or as not including a bonus,
- (b) the time when repayments are due shall be, where repayments are taken as including the maximum bonus, the earliest date on which the maximum bonus is payable and, in any other case, the earliest date on which a bonus is payable under the scheme, and
- (c) the question of what is to be taken as so included must be required to be determined at the time when rights under the scheme are obtained.

19. The scheme shall provide that if a person who has obtained rights under the scheme dies before the bonus date the rights must be exercised, if at all, within 12 months after the date of that person's death and if that person dies within 6 months after the bonus date the rights may be exercised within 12 months after the bonus date.

20. The scheme shall provide that if a person who has obtained rights under it ceases to hold the office or employment by virtue of which that person is eligible to participate in the scheme by reason of—

- (a) injury or disability or on account of his or her being dismissed by reason of redundancy (within the meaning of the Redundancy Payments Acts, 1967 to 1991), or
- (b) reaching pensionable age (within the meaning of section 2 of the Social Welfare (Consolidation) Act, 1993),

then the rights shall be exercised, if at all, within 6 months of that person so ceasing and, if that person so ceases for any other reason within 3 years of obtaining the rights, they may not be exercised at all except pursuant to such a provision of the scheme as is mentioned in paragraph 22(1)(e); in relation to the case where that person so ceases, for any other reason, more than 3 years after obtaining the rights, the scheme shall either provide that the rights may not be exercised or that they must be exercised, if at all, within 6 months of that person so ceasing.

21. The scheme shall provide that where a person who has obtained rights under it continues to hold the office or employment by virtue of which that person is eligible to participate in the scheme after the date on which that person reaches pensionable age, that person may exercise the rights within 6 months of that date.

22. (1) The scheme may provide that—

- (a) if any person obtains control of a company whose shares are scheme shares as a result of making a general offer falling within clause (a)(i) or (a)(ii) of paragraph 16(1), rights obtained under the scheme to acquire shares in the company may be exercised within 6

months of the time when the person making the offer has obtained control of the company and any condition subject to which the offer is made has been satisfied,

- (b) if under section 201 of the Companies Act, 1963, (compromise between company and its members or creditors) the court sanctions a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction of a company whose shares are scheme shares or its amalgamation with any other company or companies, rights obtained under the share option scheme to acquire shares in the company may be exercised within 6 months of the court sanctioning the compromise or arrangement,
- (c) if any person becomes bound or entitled, under section 204 of the Companies Act, 1963, (power to acquire shares of shareholders dissenting from schemes or contract which has been approved by majority), to acquire shares in a company shares in which are scheme shares, rights obtained under the scheme to acquire shares in the company may be exercised at any time when that person remains so bound or entitled,
- (d) if a company whose shares are scheme shares passes a resolution for voluntary winding up, rights obtained under a scheme to acquire shares in the company may be exercised within 6 months of the passing of the resolution,
- (e) if a person ceases to hold an office or employment by virtue of which that person is eligible to participate in the scheme by reason only that—
 - (i) that office or employment is in a company of which the grantor ceases to have control, or
 - (ii) that office or employment relates to a business or part of a business which is transferred to a person who is neither an associated company of the grantor nor a company of which the grantor has control,

rights under the scheme held by that person may be exercised within 6 months of that person so ceasing, and

- (f) if, at the bonus date, a person who has obtained rights under the scheme holds an office or employment in a company which is not a participating company but which is—
 - (i) an associated company of the grantor, or

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(ii) a company of which the grantor has control, Pt.1 S.68

those rights may be exercised within 6 months of that date.

(2) For the purposes of this paragraph a person shall be deemed to have obtained control of a company if that person and others acting in concert with that person have together obtained control of it.

23. Except as provided in paragraph 19, rights obtained by a person under the scheme shall not be capable—

- (a) of being transferred by that person, or
- (b) of being exercised later than 6 months after the bonus date.

24. No person shall be treated for the purposes of paragraph 20 or 22(1)(e) as ceasing to hold an office or employment by virtue of which that person is eligible to participate in the scheme until that person ceases to hold an office or employment in the grantor or in any associated company or company of which the grantor has control.

Acquisition of shares

25. (1) The scheme shall provide for a person's contributions under the certified contractual savings scheme to be of such amount as to secure as nearly as may be repayment of an amount equal to that for which shares may be acquired in pursuance of rights obtained under the scheme, and for this purpose the amount of repayment under the certified contractual savings scheme shall be determined as mentioned in paragraph 18.

- (2) The scheme shall not—
 - (a) permit the aggregate amount of a person's contributions under certified contractual savings schemes linked to savings-related share option schemes approved under this Schedule to exceed £250 monthly, nor
 - (b) impose a minimum on the amount of a person's contributions which exceeds £10 monthly.

(3) The Minister for Finance may by order amend subparagraph (2) by substituting for any amount for the time being specified in that subparagraph such amount as may be specified in the order.

Share price

26. The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

- (a) shall be stated at the time the right is obtained, and
- (b) shall not be manifestly less than 75 per cent of the market value of shares of the same class at that time or, if the Revenue Commissioners and the grantor agree in writing, at such earlier time or times as may be provided in the agreement,

but the scheme may provide for such variation of the price as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

Options etc.

27. (1) For the purposes of section 437(2), as applied by paragraph 8(3)(b)(ii) of this Schedule, a right to acquire shares (however arising) shall be taken to be a right to control them.

(2) Any reference in subparagraph (3) to the shares attributed to an individual is a reference to the shares which, in accordance with section 437(2) as applied by paragraph 8(3)(b)(ii) of this Schedule, fall to be brought into account in that individual's case to determine whether their number exceeds a particular percentage of the company's ordinary share capital.

(3) In any case where—

- (a) the shares attributed to an individual consist of or include shares which that individual or any other person has a right to acquire, and
- (b) the circumstances are such that, if that right were to be exercised, the shares acquired would be shares which were previously unissued and which the company is contractually bound to issue in the event of the exercise of the right;

then, in determining at any time prior to the exercise of that right whether the number of shares attributed to the individual exceeds a particular percentage of the ordinary share capital of the company, that ordinary share capital shall be taken to be increased by the number of unissued shares referred to in clause (b).

Certified Contractual Savings Schemes

1. This Schedule shall have effect for the purposes of section 519C.

2. (1) The requirements which may be specified under section 519C(4)(c) are such requirements as the Minister for Finance thinks fit.

(2) In particular, the requirements may relate to—

- (a) the descriptions of individuals who may enter into contracts under a scheme;
- (b) the contributions to be paid by individuals;
- (c) the sums to be paid or repaid to individuals.

3. (1) Where a specification has been made under section 519C(4)(c), the Minister for Finance may withdraw the specification and stipulate the date on which the withdrawal is to become effective and any certification made by the Revenue Commissioners by reference to such specification shall be deemed to have been withdrawn on the same date.

(2) No withdrawal under this paragraph shall affect—

- (a) the operation of a certified contractual savings scheme before the stipulated date, or
- (b) any contract under such a scheme entered into before that date.

(3) No withdrawal under this paragraph shall be effective unless the Revenue Commissioners—

- (a) send a notice by post to each qualifying savings institution informing it of the withdrawal of both the specification and certification, and
- (b) do so not less than 28 days before the stipulated date.

4. (1) Where a specification has been made under section 519C(4)(c), the Minister for Finance may vary the specification and stipulate the date on which the variation is to become effective and any certification made by the Revenue Commissioners by reference to the specification obtaining before the variation shall be deemed to have been withdrawn on the date the variation became effective.

(2) The Revenue Commissioners may at any time certify a scheme as fulfilling the requirements obtaining after the variation.

(3) No variation and withdrawal under this paragraph shall affect—

- (a) the operation of a certified contractual savings scheme before the stipulated date, or
- (b) any contract under such a scheme entered into before that date.

(4) No variation and withdrawal under this paragraph shall be effective unless the Revenue Commissioners—

- (a) send a notice by post to each qualifying savings institution informing it of the variation of the specification and withdrawal of the certification, and
- (b) do so not less than 28 days before the stipulated date.

Information

5. The Revenue Commissioners may by notice in writing require any person to furnish them, within such time as the Revenue Commissioners may direct (not being less than 30 days), with such information as the Revenue Commissioners think necessary for the performance of their functions under this Schedule, and which the person to whom the notice is addressed has or can reasonably obtain, including in particular information—

- (a) to enable the Revenue Commissioners to determine—
 - (i) whether to certify a scheme or withdraw a certification already given, or
 - (ii) the liability to tax, including capital gains tax, of any person who has participated in a scheme, and
- (b) in relation to the administration of a scheme and any alteration of the terms of a scheme.

6. The Revenue Commissioners may nominate any of their officers, including an inspector, to perform any acts and discharge any functions authorised by this Schedule to be performed or discharged by them.”.

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

- (a) in Chapter 1 of Part 17—
 - (i) in section 510 by the insertion of the following after subsection (5):

“(5A) (a) This subsection shall apply where—

 - (i) the trustees of an approved profit sharing scheme make an appropriation of shares, to which section 510(3) applies, to a participant,
 - (ii) the shares concerned were transferred to the trustees of the approved scheme concerned by the trustees of an employee share ownership trust to which section 519 applies, and

(iii) the shares were transferred at a date later than that on which the shares could have first been transferred in accordance with the terms of the employee share ownership trust deed or any other document but, for whatever reason, were not transferred on that earlier date.

(b) Where this subsection applies, the appropriation to the participant concerned shall, for the purposes of capital gains tax, be deemed to have taken place on the day following the day on which those shares could have first been transferred by the trustees of the employee share ownership trust concerned, in accordance with the terms of the trust deed under which that trust was established or any other document.”,

(ii) in section 511A by the insertion of the following subsections after subsection (2):

“(3) Subject to subsection (5), subsection (4) shall apply where—

(a) the trustees of an approved scheme make an appropriation to a participant of shares to which section 510(3) applies, and

(b) the shares concerned were transferred to those trustees by the trustees of an employee share ownership trust to which section 519 applies.

(4) For the purposes of this Chapter as it applies to the shares referred to in subsection (3), where this subsection applies—

(a) the period of retention shall end—

(i) where, immediately prior to the transfer referred to in subsection (3)(b), the shares concerned had been held in the employee share ownership trust for a period (in subsection (5) referred to as ‘the first period’) of less than 2 years, on the day following the day on which a period, being a period equivalent in length to the difference between 2 years and the length of the period for which the shares had been so held, has elapsed since the shares were appropriated to the participant, or

(ii) where, prior to the transfer referred to in subsection (3)(b), the shares concerned had been held in the employee share ownership trust for a period (in subsection (5) referred to as 'the second period') of 2 years or more, the day following the day on which the shares were appropriated to the participant,

and

(b) where, immediately prior to the transfer referred to in subsection (3)(b), the shares concerned had been held in the employee share ownership trust for a period (in subsection (5) referred to as 'the third period') of less than 3 years, the release date shall be the day following the day on which a period, being a period equivalent in length to the difference between 3 years and the length of the period for which the shares had been so held, has elapsed since the shares were appropriated to the participant.

(5) Subsection (4) shall not apply unless the participant concerned was a beneficiary (within the meaning of paragraph 11 of Schedule 12) under the employee share ownership trust at all times during—

(a) the first period or the second period, as may be appropriate, and

(b) the third period.”,

and

(iii) in section 515, by the substitution of the following subsections for subsections (1) and (2):

“(1) Subject to subsection (2B), where the total of the initial market values of all the shares appropriated to an individual in any one year of assessment (whether under a single approved scheme or under 2 or more such schemes) exceeds—

(a) £10,000, or

(b) £30,000 where the conditions in subsection (2A) are satisfied,

subsections (4) to (7) shall apply to any excess shares, that is, any share which caused the applicable limit to be exceeded and any share appropriated after the applicable limit was exceeded.

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(2) For the purposes of subsection (1), where a number of shares is appropriated to an individual at the same time under 2 or more approved schemes, the same proportion of the shares appropriated at that time under each scheme shall be regarded as being appropriated before the limit of £10,000 or the limit of £30,000, as the case may be, is exceeded.

(2A) The conditions referred to in paragraph (b) of subsection (1) are—

- (a) the shares appropriated to such individual have been transferred to the trustees of the approved scheme concerned by the trustees of an employee share ownership trust to which section 519 applies,
- (b) at each given time in the 5 years commencing with the date of the establishment of the employee share ownership trust 50 per cent, or such lesser percentage as the Minister for Finance may by order prescribe, of the securities retained by the trustees at the time were pledged by them as security for borrowings,
- (c) at the time of transfer referred to in paragraph (a) a period of at least 10 years commencing on the date the employee share ownership trust was established and ending at the time when all the shares pledged as security for borrowings by the trustees of the employee share ownership trust became unpledged (hereafter in this section referred to as the 'encumbered period') has elapsed, and
- (d) no shares which were pledged, at any time since the trust was established, as security for borrowings by the trustees of the employee share ownership trust were previously transferred to the trustees of the approved scheme because they remained so pledged during the encumbered period.

(2B) The limit of £30,000 in paragraph (b) of subsection (1) may only be applied in the first year of assessment during which the encumbered period has elapsed and then only in respect of shares appropriated after that period has so elapsed.”,

(b) in Chapter 2 of Part 17—

- (i) by the insertion in section 519 of the following subsection after subsection (7):

“(7A) Where the trustees of a trust to which this section applies sell securities on the open market, any gain accruing to such trustees shall not be a chargeable gain if, and to the extent that, the proceeds of such sale are used to repay monies borrowed by those trustees or to pay interest on such borrowings.”,

and

- (ii) by the substitution of the following for paragraphs (b) and (c) of subsection (9):

“(b) income consisting of dividends in respect of securities held by that trust,

(c) the transfer of securities to a profit sharing scheme approved under Part 2 of Schedule 11, or

(d) the gain accruing to the trustees of that trust from the sale of shares on the open market.”,

(c) in Schedule 11—

- (i) by the substitution in paragraph 3, of the following subparagraph for subparagraph (4):

“(4) The scheme shall provide that the total of the initial market values of the shares appropriated to any one participant in a year of assessment will not exceed £10,000, or where paragraph (b) of subsection (1) of section 515 applies, £30,000.”,

- (ii) in paragraph 4, by the substitution in subparagraph (1)(b) of “3 years” for “5 years”,

and

- (iii) by the insertion of the following paragraph after paragraph 12:

“12A. Notwithstanding paragraph 12, an individual shall be eligible to have shares appropriated to him or her under the scheme at any time if—

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

(b) the individual is at that time, or was within the preceding 30 days, a beneficiary (within the meaning of paragraph 11 of Schedule 12) of that employee share ownership trust.”,

and

(d) in Schedule 12—

(i) in paragraph 11—

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(I) by the insertion of the following subparagraphs after subparagraph (2A) (inserted by the Finance Act, 1998):

“(2B) Subject to subparagraph (2C), the trust deed may provide that a person is a beneficiary at a particular time (in this subparagraph referred to as ‘the relevant time’) if—

(a) the person has at each given time in a qualifying period been an employee or director of a company within the founding company’s group at that given time,

(b) the person was such an employee or director—

(i) on the date the trust was established or at some time within 9 months prior to that date, or

(ii) at any time in the period of 5 years beginning with such date,

(c) the person has ceased to be an employee or director of the company or the company has ceased to be within that group,

(d) at each given time in the 5 year period 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

(e) at the relevant time a period of not more than 15 years has elapsed since the trust was established.

(2C) The trust deed shall not contain a rule that conforms with subparagraph (2B) unless the rule is expressed as applying to every person within it.”,

(II) by the substitution in subparagraph (4)(a), of “subparagraphs (2A), (2B) and (3)” for “subparagraphs (2A) and (3)”,

(III) by the substitution in subparagraph (5)(a) of “3 years” for “5 years”,

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(IV) by the substitution in subparagraph (6), of “subparagraphs (2B) and (3)” for “subparagraph (3)” and by the substitution of “subparagraphs (2B)(c) and (3)(b)” for “subparagraph (3)(b)”,

(V) by the substitution in subparagraph (7), of “subparagraph (2A), (2B), (3) or (4)” for “subparagraph (2A), (3) or (4)”,

and

(VI) by the substitution in subparagraph (8), of “subparagraph (2), (2A), (2B), (3) or (4)” for “subparagraph (2), (2A), (3) or (4)”,

and

(ii) in paragraph 18, by the insertion in subparagraph (3)(a), after “when the agreement is made” of “or, if the agreement is subject to one or more specified conditions being satisfied, on that condition or those conditions being satisfied”.

(2) (a) *Paragraphs (a)(i), (a)(ii) and (c)(iii) of subsection (1) shall apply as respects an appropriation of shares made by the trustees of an approved scheme (within the meaning of section 510(1) of the Principal Act) on or after the date of the passing of this Act.*

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

(c) *Paragraph (c)(ii) of subsection (1) shall apply as respects profit sharing schemes approved of under Part 2 of Schedule 11 to the Principal Act on or after the date of the passing of this Act.*

Chapter 6

Income Tax and Corporation Tax: Tax reliefs for the provision of Park and Ride Facilities and for Certain Related Developments

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.

70.—(1) Part 10 of the Principal Act is hereby amended by the insertion after Chapter 8 (inserted by the Finance Act, 1998) of the following:

“Chapter 9

Park and ride facilities and certain related developments

Interpretation (Chapter 9).

372U.—(1) In this Chapter—

‘guidelines’ means, subject to subsection (2), guidelines in relation to—

(a) the location, development and operation of park and ride facilities,

(b) the development of commercial activities located at qualifying park and ride facilities, and

(c) the development of certain residential accommodation located at certain qualifying park and ride facilities,

issued by the Minister for the Environment and Local Government following consultation with the Minister for Public Enterprise and with the consent of the Minister for Finance;

‘park and ride facility’ means—

(a) a building or structure served by a bus or train service, in use for the purpose of providing, for members of the public generally, intending to continue a journey by bus or train and without preference for any particular class of person and on payment of an appropriate charge, parking space for mechanically propelled vehicles, and

(b) any area under, over or immediately adjoining the building or structure to which paragraph (a) refers on which a qualifying premises (within the meaning of section 372W, 372X or 372Y) is or is to be situated;

‘qualifying park and ride facility’ means a park and ride facility in respect of which the relevant local authority, in consultation with such other agencies as may be specified in the guidelines, gives a certificate in writing to the person constructing or refurbishing such a facility stating that it is satisfied that the facility complies with the criteria and requirements laid down in the guidelines;

‘qualifying period’ means the period commencing on the 1st day of July, 1999, and ending on the 30th day of June, 2002;

‘the relevant local authority’, in relation to the construction or refurbishment of a park and ride facility or a qualifying premises within the meaning of section 372W or the construction of a qualifying premises within the respective meanings assigned in sections 372X and 372Y, means—

(a) in respect of the county boroughs of Cork, Dublin, Galway, Limerick and Waterford, the corporation of the borough concerned,

(b) in respect of the administrative counties of Clare, Cork, Dún Laoghaire-Rathdown, Fingal, Galway, Kildare, Kilkenny, Limerick, Meath, South

Dublin, Waterford and Wicklow, the council of the county concerned,

- (c) an urban district council situated in the administrative county of Kildare, Meath or Wicklow,

in whose functional area the park and ride facility is situated.

(2) For the purposes of this Chapter, and without prejudice to the generality of the meaning of the guidelines referred to in subsection (1), the guidelines may include provisions in relation to all or any one or more of the following:

- (a) the criteria for determining the suitability of a site as a location for a park and ride facility,
- (b) the conditions to apply in relation to the provision of transport services to and from a park and ride facility, including provision for a formal agreement between a transport service provider and a park and ride facility operator where these functions are discharged by separate persons,
- (c) the hours of operation of a park and ride facility and the level and structure of charges to be borne by members of the public in respect of parking and the use of transport services to or from a park and ride facility,
- (d) the minimum number of vehicle parking spaces to be provided in a park and ride facility,
- (e) the proportion of parking space, if any, in a park and ride facility which may, subject to any necessary conditions, be allocated for purposes connected with any commercial or residential development at a park and ride facility,
- (f) the requirements to apply in relation to the development and operation of commercial activities, if any, at a park and ride facility, including requirements necessary to ensure that those activities do not have an adverse effect on the development and operation of the park and ride facility, and
- (g) the requirements to apply in relation to the provision of residential accommodation, if any, at a park and ride facility, including requirements necessary to ensure that such accommo-

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dation does not have an adverse effect on the development and operation of the park and ride facility.

Capital allowances in relation to construction or refurbishment of certain park and ride facilities.

372V.—(1) (a) Subject to subsections (2) to (4), the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply as if a qualifying park and ride facility were, at all times at which it is a qualifying park and ride facility, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by reason of its use for a purpose specified in section 268(1)(a).

(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 park and ride facility only in so far as that expenditure is incurred in the qualifying period.

(2) In a case where capital expenditure is incurred in the qualifying period on the refurbishment of a qualifying park and ride facility, subsection (1) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 10 per cent of the market value of the qualifying park and ride facility immediately before that expenditure is incurred.

(3) For the purposes of the application, by subsection (1), of sections 271 and 273 in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying park and ride facility—

(a) section 271 shall apply—

(i) as if in subsection (1) of that section the definition of ‘industrial development agency’ were deleted,

(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 of an amount equal to 50 per cent of the capital expenditure mentioned in subsection (2).’

and

(v) as if in subsection (5) of that section ‘to which subsection (3)(c) applies’ 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.

(4) Notwithstanding section 274(1), no balancing charge shall be made in relation to a qualifying park and ride facility by reason of any of the events specified in that section which occurs—

(a) more than 13 years after the qualifying park and ride facility was first used, or

(b) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the park and ride facility was incurred.

(5) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (1), whether and to what extent capital expenditure incurred on the construction or refurbishment of a qualifying park and ride facility 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 qualifying park and ride facility 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.

(6) Where an allowance is given under this section in respect of capital expenditure incurred

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on the construction or refurbishment of a qualifying park and ride facility, no allowance shall be given in respect of that expenditure by virtue of any other provision of the Tax Acts. Pt.1 S.70

Capital allowances in relation to construction or refurbishment of certain commercial premises.

372W.—(1) In this section ‘qualifying premises’ means a building or structure the site of which is wholly within the site of a qualifying park and ride facility and—

- (a) in respect of which the relevant local authority gives to the person constructing or refurbishing the premises a certificate in writing stating that it is satisfied that the premises and the activity to be carried on in the premises complies with the requirements laid down in the guidelines in relation to the development of commercial activity at a qualifying park and ride facility, and
- (b) which apart from this section is not an industrial building or structure within the meaning of section 268(1), and
- (c) (i) is in use for the purposes of a trade or profession, or
- (ii) whether or not it is so used, is let on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure negotiated on an arm’s length basis,

but does not include any part of a building or structure in use as or as part of a dwelling house.

(2) (a) Subject to paragraphs (b) and (c) and subsections (3) to (5), the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply—

- (i) as if a qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by reason of its use for a purpose specified in section 268(1)(a), and

(ii) where any activity carried on in the qualifying premises is not a trade, as if it were a trade.

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

(c) (i) 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 at a park and ride facility only in so far as that expenditure when aggregated with—

(I) other capital expenditure, if any, incurred on the construction or refurbishment of other qualifying premises and in respect of which an allowance would or would but for this paragraph be given, and

(II) other expenditure, if any, in respect of which there is provision for a deduction to be made by virtue of section 372X or 372Y,

incurred at that park and ride facility, does not exceed one-half of the total capital expenditure incurred at that park and ride facility in respect of which an allowance or deduction is to be made or would, but for this paragraph or section 372X(4) or 372Y(2)(c), be made by virtue of any provision of this Chapter.

(ii) A person who has incurred capital expenditure on the construction or refurbishment of a qualifying premises at a park and ride facility and who claims to have complied with the requirements of subparagraph (i) in relation to that expenditure, shall be deemed not to have so complied unless the person has received from the relevant local authority a certificate in writing issued by it stating that it is satisfied that those requirements have been met.

(3) In the case where capital expenditure is incurred in the qualifying period on the refurbishment of a qualifying premises, subsection (2) shall apply only if the total amount of the capital expenditure so incurred is not less than an amount equal to 10 per cent of the market value of the qualifying premises immediately before that expenditure was incurred.

(4) For the purposes of the application, by subsection (2), of sections 271 and 273 in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises—

(a) section 271 shall apply—

- (i) as if in subsection (1) of that section the definition of 'industrial development agency' were deleted,
- (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 of an amount equal to 50 per cent of the capital expenditure mentioned in subsection (2).'

and

- (v) as if in subsection (5) of that section 'to which subsection (3)(c) applies' 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.

(5) Notwithstanding section 274(1), no balancing charge shall be made in relation to a qualifying premises by reason of any of the events specified in that section which occur—

(a) more than 13 years after the qualifying premises was first used, or

(b) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the qualifying premises was incurred.

(6) 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.

(7) Where an allowance is given under this section in respect of capital expenditure incurred on the construction or refurbishment of a qualifying premises, no allowance shall be given in respect of that expenditure by virtue of any other provision of the Tax Acts.

Rented residential accommodation: deduction for certain expenditure on construction.

372X.—(1) In this section—

‘qualifying lease’, in relation to a house, means, subject to section 372Z(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) and (5) of section 372Z, a house—

(a) the site of which is wholly within the site of a qualifying park and ride facility,

(b) in respect of which the relevant local authority gives to the person constructing the house a certificate in writing stating that it is satisfied that 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 part complies with the requirements laid down in the

guidelines in relation to the development of certain residential accommodation at a park and ride facility,

- (c) which is used solely as a dwelling,
- (d) the total floor area of which is not less than 38 square metres and not more than 125 square metres,
- (e) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost, the amount specified in which in respect of the cost of construction of the house is not less than the expenditure actually incurred on such construction, and
- (f) 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 (5), 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 subsections (3) and (4), where a person, having made a claim in that behalf, proves to have incurred expenditure on the construction of a qualifying premises—

- (a) such person shall be entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of that expenditure as is to be treated under section 372Z(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 372Z(7) as having been incurred in the qualifying period) bears to the whole of the expenditure incurred on that construction.
- (4) (a) A person shall be entitled to a deduction by virtue of subsection (2) in respect of capital expenditure incurred on the construction of qualifying premises at a park and ride facility only in so far as that expenditure when aggregated with—
- (i) other capital expenditure, if any, incurred on the construction of other qualifying premises and in respect of which a deduction would or would but for this subsection be made, and
 - (ii) other expenditure, if any, in respect of which there is provision for a deduction under section 372Y,

incurred at that park and ride facility, does not exceed one-quarter of the total capital expenditure incurred at that park and ride facility in respect of which an allowance or deduction is to be made or would, but for this subsection or section 372W(2)(c) or 372Y(2)(c), be made by virtue of any provision of this Chapter.

- (b) A person who has incurred capital expenditure on the construction of a qualifying premises at a park and ride facility and who claims to have complied with the requirements of paragraph (a) in relation to that expenditure, shall be deemed not to have so complied unless the person has received from the relevant local authority a certificate in writing issued by it stating that it is satisfied that those requirements have been met.

(5) 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.

(6) 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.

(7) (a) Where the event mentioned in subsection (6)(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 372Z(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 (8), 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 372Z(7) as having been incurred in the qualifying period bears to the relevant cost in relation to that house.

(8) (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 372Z(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.

(9) Section 372Z shall apply for the purposes of supplementing this section.

Residential accommodation: allowance to owner-occupiers in respect of certain expenditure on construction.

372Y.—(1) In this section—

'qualifying expenditure', in relation to an individual, means an amount equal to the amount of the expenditure incurred by the individual on the construction 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 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 372Z, a house—

- (a) the site of which is wholly within the site of a qualifying park and ride facility,
 - (b) in respect of which the relevant local authority gives to the person constructing the house a certificate in writing stating that it is satisfied that 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 part complies with the requirements laid down in the guidelines in relation to the development of certain residential accommodation at a park and ride facility,
 - (c) which is used solely as a dwelling,
 - (d) in respect of which, if it is not a new house (for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of construction of the house is not less than the expenditure actually incurred on such construction, and
 - (e) the total floor area of which is not less than 38 square metres and not more than 125 square metres.
- (2) (a) Subject to paragraphs (b) and (c), 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 5 per cent of the amount of that expenditure.
- (b) A deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure is to be treated under section

372Z(7) as having been incurred in Pt.1 S.70
the qualifying period.

- (c) (i) A person shall be entitled to a deduction by virtue of this subsection in respect of qualifying expenditure incurred at a park and ride facility only in so far as that expenditure when aggregated with—
- (I) other qualifying expenditure, if any, in respect of which a deduction would or would but for this paragraph be made, and
- (II) other expenditure, if any, in respect of which there is provision for a deduction under section 372X,

incurred at that park and ride facility, does not exceed one-quarter of the total capital expenditure incurred at that park and ride facility in respect of which an allowance or deduction is to be made or would, but for this paragraph or section 372W(2)(c) or 372X(4), be made by virtue of any provision of this Chapter.

- (ii) A person who has incurred qualifying expenditure at a park and ride facility and who claims to have complied with the requirements of subparagraph (i) in relation to that expenditure, shall be deemed not to have so complied unless the person has received from the relevant local authority a certificate in writing issued by it stating that it is satisfied that those requirements have been met.

(3) Where qualifying expenditure in relation to a qualifying premises is incurred by 2 or more persons, then 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) Section 372Z shall apply for the purposes of supplementing this section.

372X or 372Y, as the case may be, stating that the amount specified in the certificate in relation to the cost of construction 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 372X 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 372X 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 the house, to a deduction under section 372X(2), and

(b) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(4) A house shall not be a qualifying premises for the purposes of section 372X or 372Y 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.

(5) A house shall not be a qualifying premises for the purposes of section 372X or 372Y 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 372X and 372Y, references in those sections to the construction 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 372X(2) or 372Y(2), as the case may be, whether and to what extent expenditure incurred on the construction 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 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 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 the qualifying premises were references to the development of such land.

(8) (a) For the purposes of section 372X, other than the purposes mentioned in subsection (7)(a), expenditure incurred on the construction of 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 372Y, other than the purposes mentioned in subsection (7)(a), expenditure incurred on the construction 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 section 372X, 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 372X(2) were a capital allowance and as if any rent deemed to have been received by a person under section 372X(5) were a balancing charge.

(11) Where a deduction in respect of expenditure is given under section 372X(2) or 372Y(2), relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.

(12) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 372X or 372Y (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.”

(2) The Principal Act is hereby amended—

(a) in section 458 by the insertion in Part 1 of the Table to that section after “Section 372RA” (inserted by this Act) of “Section 372Y”, and

(b) by the substitution in section 1024(2)(a)(i) of “372I, 372RA and 372Y” for “372I and 372RA” (inserted by this Act).

Chapter 7

Corporation Tax

Rate of corporation tax.

71.—(1) Section 21 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (1):

“(1) Corporation tax shall be charged on the profits of companies at the rate of—

(a) 32 per cent for the financial year 1998,

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- (b) 28 per cent for the financial year 1999,
- (c) 24 per cent for the financial year 2000,
- (d) 20 per cent for the financial year 2001,
- (e) 16 per cent for the financial year 2002,
- (f) 12½ per cent for the financial year 2003 and each subsequent financial year.”.

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(2) *Schedule 1* shall have effect for the purposes of supplementing this section.

72.—(1) Section 22 of the Principal Act is hereby amended—

Amendment of section 22 (reduced rate of corporation tax for certain income) of Principal Act.

(a) in subsection (1)—

(i) in paragraph (a), by the substitution for clauses (I) to (III) of the following clauses:

- “(I) as respects accounting periods ending on or after the 1st day of April, 1997, and before the 1st day of January, 1998, 28 per cent, and
- (II) as respects accounting periods ending on or after the 1st day of January, 1998, and before the 1st day of January, 2000, 25 per cent.”, and

(ii) by the deletion of paragraph (b),

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

“(2) For the purposes of subsection (1) and subject to subsections (3) and (4), the specified amount in relation to an accounting period of a company shall be an amount determined by the formula—

$$L \times \frac{N}{12} \times \frac{1}{A}$$

where—

L is—

- (a) in the case of an accounting period ending before the 1st day of January, 1999, £50,000, and
- (b) in the case of an accounting period ending on or after the 1st day of January, 1999, £100,000,

N is the number of months in the accounting period, and

A is one plus the number of associated companies which the company has in the accounting period.”, and

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

“(7A) For the purposes of this section—

- (a) where an accounting period of a company begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and the other beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company,
- (b) where an accounting period of a company begins before the 1st day of January, 1999, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the 31st day of December, 1998, and the other beginning on the 1st day of January, 1999, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company, and
- (c) where an accounting period of a company begins before the 1st day of January, 2000, and ends on or after that day, it shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the 31st day of December, 1999, and the other beginning on the 1st day of January, 2000, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.”.

(2) Section 22 of the Principal Act is hereby repealed with effect from the 1st day of January, 2000.

Higher rate of corporation tax.

73.—The Principal Act is hereby amended by the insertion of the following section after section 21:

“Higher rate of corporation tax.

21A.—(1) In this section—

‘construction operations’ means operations of any of the descriptions referred to in the definition of ‘construction operations’ in section 530(1), other than operations referred to in paragraph (f) of that definition;

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'dealing in or developing land' shall be construed Pt.1 S.73
in accordance with Chapter 1 of Part 22;

'excepted operations' means any one or more of
the following operations or activities—

- (a) dealing in or developing land, other than
such part of that operation or activity
as consists of construction operations,
- (b) working minerals, and
- (c) petroleum activities;

'excepted trade' means a trade consisting only of
trading operations or activities which are
excepted operations or, in the case of a trade con-
sisting partly of excepted operations and partly of
other operations or activities, the part of the
trade consisting only of excepted operations
which is treated as a separate trade by virtue of
subsection (2);

'land' includes foreshore and land covered with
water, and 'dry land' means land not permanently
covered by water;

'minerals' means all substances (other than the
agricultural surface of the ground and other than
turf or peat) in, on or under land, whether obtain-
able by underground or by surface working, and
includes all mines, whether or not they are
already opened or in work, and also includes the
cubic space occupied or formerly occupied by
minerals;

'petroleum' has the same meaning as in section
2(1) of the Petroleum and Other Minerals
Development Act, 1960;

'petroleum activities' means any one or more of
the following activities—

- (a) petroleum exploration activities,
- (b) petroleum extraction activities, and
- (c) the acquisition, enjoyment or exploi-
tation of petroleum rights;

'petroleum exploration activities' means activities
carried on in searching for deposits of petroleum,
in testing or appraising such deposits or in win-
ning access to such deposits for the purposes of
such searching, testing or appraising;

'petroleum extraction activities' means activities
carried on in—

- (a) winning petroleum from any land,
including searching in that land and
winning access to such petroleum,

(b) transporting as far as dry land petroleum so won from a place not on dry land, or

(c) effecting the initial treatment and storage of petroleum so won from any land;

‘petroleum rights’ means rights to petroleum to be extracted or to interests in, or to the benefit of, petroleum;

‘working’, in relation to minerals, includes digging, searching for, mining, getting, raising, taking, carrying away and treating minerals and the sale or other disposal of minerals.

(2) For the purposes of this section, where a trade consists partly of excepted operations and partly of other operations or activities, the part of the trade consisting of excepted operations and the part of the trade consisting of other operations or activities shall each be treated as a separate trade, and there shall be apportioned to each such part such proportion of the total amount receivable from sales made and services rendered in the course of the trade, and of expenses incurred in the course of the trade, as is just and reasonable.

(3) 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.

(4) This section shall not apply to the profits of a company for any accounting period to the extent that those profits consist of income from the sale of goods within the meaning of section 454.”.

Provisions relating to 10 per cent rate of corporation tax.

74.—Chapter 1 of Part 14 of the Principal Act is hereby amended—

(a) in section 442—

(i) in subsection (1)—

(I) by the insertion of the following before the definition of “merchandise”:

“‘expansion operations’, in relation to a company, includes—

(a) increases in production capacity for existing or directly related product lines of the company, and

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- (b) the addition of support functions directly related to the existing trading operations of the company; Pt.1 S.74

‘industrial development agency’ means—

- (a) the Industrial Development Authority in Ireland,
 - (b) the Shannon Free Airport Development Company,
 - (c) Údarás na Gaeltachta,
 - (d) the Industrial Development Agency, Ireland,
 - (e) Forbairt,
 - (f) Forfás, or
 - (g) Enterprise Ireland;”
- (II) by the substitution of the following for the definitions of “relevant accounting period” and “relief under this Part”, respectively:

“‘relevant accounting period’, in relation to a trade carried on by a company which consists of or includes the manufacture of goods, means an accounting period or part of an accounting period of a company ending on or before—

- (a) where subsection (11) or (12) of section 443 applies, the 31st day of December, 2000,
- (b) in the case of a trade, other than a specified trade, which is set up and commenced on or after the 23rd day of July, 1998, the 31st day of December, 2002, and
- (c) in any other case, the 31st day of December, 2010;

‘relief under this Part’ means the reduction of corporation tax provided for in section 448(2);”

and

- (III) by the addition of the following after the definition of “relief under this Part”:

“‘specified trade’, in relation to a company—

- (a) means a trade which consists of or includes trading operations specified in a grant agreement (in this definition referred to as ‘the relevant grant agreement’) entered into between the company and an industrial development agency on foot of an approval of grant assistance for the company made by the

industrial development agency on or before the 31st day of July, 1998, but

- (b) does not include such part of the trade as consists of expansion operations which commenced to be carried on on or after the 23rd day of July, 1998, other than such of those operations as would fall within the terms of the relevant grant agreement;”

and

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

“(3) Where, by virtue of the application of the definition of ‘specified trade’, an accounting period or part of an accounting period—

- (a) would be a relevant accounting period in relation to a part (in this subsection referred to as ‘the first-mentioned part’) of a trade carried on by a company, and
- (b) would not be a relevant accounting period in relation to another part (in this subsection referred to as ‘the second-mentioned part’) of that trade,

then, for the purposes of this Part—

- (i) the first-mentioned part and the second-mentioned part shall each be treated as a separate trade, and
- (ii) there shall be apportioned to the first-mentioned part and the second-mentioned part such proportion of the total amount receivable from sales made and services rendered in the course of the trade, and of expenses incurred in the course of the trade, in the accounting period or part of the accounting period, as the case may be, as is just and reasonable.

(4) Where—

- (a) on or after the 23rd day of July, 1998, a company (in this subsection referred to as ‘the successor company’) succeeds to a trade or part of a trade which was carried on by another company (in this subsection referred to as ‘the original company’), and
- (b) the original company has or could have made a claim to relief under this Part in relation to the trade or part of the trade,

then, subject to sections 445 and 446, relief, in so far as such relief relates to the trade or part of the trade in question, shall be granted to the successor company as respects the remaining relevant accounting periods for which such relief might have been

claimed by the original company if it had continued to carry on the trade or part of the trade in question.”, Pt.1 S.74

- (b) in section 445(2), by the substitution of the following for “until the 31st day of December, 2005”:

“until—

- (a) in the case of those operations which, on or before the 31st day of May, 1998, were approved by the Minister for carry on in the airport, the 31st day of December, 2005, and
- (b) in the case of those operations which are so approved after the 31st day of May, 1998, the 31st day of December, 2002”,

- (c) in section 446(2), by the substitution of the following for “until the 31st day of December, 2005”:

“until—

- (a) in the case of those operations which, on or before the 31st day of July, 1998, were approved by the Minister for carry on in the Area, the 31st day of December, 2005, and
- (b) in the case of those operations which are so approved after the 31st day of July, 1998, the 31st day of December, 2002”,

- (d) in section 454—

- (i) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) For the purposes of this section, where a part only of an accounting period of a company is a relevant accounting period, the accounting period shall be divided into 2 parts, one beginning on the day on which the accounting period begins and ending on the last day of the accounting period which is within the relevant accounting period, and the other beginning on the day after that last-mentioned day and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.”,

and

- (ii) in subsection (2), by the substitution of “a relevant accounting period” for “an accounting period ending on or before the 31st day of December, 2010,”,

- (e) in section 455—

- (i) in subsection (2), by the substitution of “a relevant accounting period” and “the relevant accounting period” for “an accounting period” and “the accounting period”, respectively, and

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(ii) in subsection (3), by the substitution of “a relevant accounting period” and “that relevant accounting period” for “an accounting period” and “that accounting period”, respectively,

and

(f) in section 456(2)(a), by the substitution of “any relevant accounting period” for “any accounting period ending on or before the 31st day of December, 2010,”.

Amendment of section 88 (deduction for gifts to Enterprise Trust Ltd.) of Principal Act.

75.—Section 88 of the Principal Act is hereby amended—

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

“(1) In this section, ‘the company’ means the company incorporated on the 30th day of October, 1991, as The Enterprise Trust Limited or such successor body of The Enterprise Trust Limited as may be approved for the purposes of this section by the Minister for Finance.”,

(b) in subsection (2)(a), by the substitution for “31st day of December, 1999” of “31st day of December, 2002”,

(c) in subsection (3)(b), by the substitution for subparagraph (iii) of the following subparagraph:

“(ii) in respect of a gift made at any time in the year ending on the 31st day of December in the year 1999, 2000, 2001 or 2002, if at that time the aggregate of the net amounts of all gifts to which this section applies made to the company within that year exceeds £5,000,000.”,

and

(d) in subsection (6), by the substitution for “the amounts specified in subparagraphs (i) and (ii)” of “the amount specified in subparagraph (i)”.

Income of Investor Compensation Company Ltd.

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

(a) by the insertion after section 219A of the following section:

“Income of Investor Compensation Company Ltd.

219B.—(1) In this section, ‘the company’ means the company incorporated on the 10th day of September, 1998, as The Investor Compensation Company Limited.

(2) Notwithstanding any provision of the Corporation Tax Acts, profits arising in any accounting period ending on or after the 10th day of September, 1998, to the company shall be exempt from corporation tax.”,

and

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(b) in section 256(1), in paragraph (a) of the definition of “relevant deposit”, by the substitution for subparagraphs (iv) and (v) of the following subparagraphs: Pt.1 S.76

“(iv) the Central Bank of Ireland,

(v) The Investor Compensation Company Limited, or

(vi) Icarom plc.”.

(2) Paragraph (b) of subsection (1) shall be deemed to have come into operation on the 10th day of September, 1998.

77.—Section 220 of the Principal Act is hereby amended as respects any accounting period beginning on or after the date of passing of this Act by the deletion of paragraph 1 of the Table to the section.

Withdrawal of exemption from corporation tax for Bord Gáis Éireann.

78.—(1) Chapter 5 of Part 12 of the Principal Act is hereby amended—

Amendment of Chapter 5 (group relief) of Part 12 of Principal Act.

(a) in section 410—

(i) in subsection (1)(a) by the insertion before the definition of “trading or holding company” of the following definition:

“‘tax’, in relation to a Member State of the European Communities other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State;”.

(ii) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) For the purposes of this section—

(i) a company shall be owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by 5 or fewer companies resident in one or more than one Member State of the European Communities of which none of these companies beneficially owns less than 5 per cent of that capital, and those companies shall be called the members of the consortium, and

(ii) references to a company resident in a Member State of the European Communities shall be construed as references to a company which, by virtue of the law of a Member State of the European Communities, is resident for the purposes of tax in such a Member State.”.

(iii) in paragraph (a) of subsection (3) by the substitution for “in the State” of “in a Member State of the European Communities”, and

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(iv) in paragraph (a)(i) of subsection (4) by the substitution for “so resident” of “resident in a Member State of the European Communities”,

(b) in section 411(1)—

(i) in paragraph (a) by the insertion before the definition of “trading company” of the following definition:

“‘tax’, in relation to a Member State of the European Communities other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State;”,

(ii) in paragraph (c)—

(I) by the substitution for “companies resident in the State” of “a company which, by virtue of the law of a Member State of the European Communities, is resident for the purposes of tax in such a Member State”, and

(II) by the substitution for “company not resident in the State” of “company, not being a company which, by virtue of the law of a Member State of the European Communities, is resident for the purposes of tax in such a Member State”,

and

(c) in section 420 by the insertion in subsection (1) after “trade” of “in respect of which the company is within the charge to corporation tax”.

(2) This section shall apply as respects accounting periods ending on or after the 1st day of July, 1998.

Amendment of section 130 (matters to be treated as distributions) of Principal Act.

79.—(1) Section 130 of the Principal Act is hereby amended—

(a) in subsection (3)—

(i) in paragraph (b) by the substitution for “also so resident” of “, being a company which, by virtue of the law of a Member State of the European Communities, is resident for the purposes of tax in such a Member State”, and

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

“(c) For the purposes of this subsection and subsection (4), ‘tax’, in relation to a Member State of the European Communities other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State.”,

and

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(b) in subsection (4)(c) by the substitution for “not resident in the State” of “, not being a company which, by virtue of the law of a Member State of the European Communities, is resident for the purposes of tax in such a Member State”. Pt.1 S.79

(2) This section shall apply as respects accounting periods ending on or after the 1st day of July, 1998.

80.—Section 486 of the Principal Act is hereby amended—

Amendment of section 486 (corporation tax: relief for gifts to First Step) of Principal Act.

(a) in subsection (2)(a), by the substitution for “before the 1st day of January, 2000” of “on or before the 31st day of December, 2002”, and

(b) in subsection (4)(b)—

(i) in subparagraph (iii), by the substitution for “1996, 1997, 1998 or 1999” of “1999, 2000, 2001 or 2002”, and

(ii) in subparagraph (iv), by the substitution for “commencing on the 1st day of June, 1999, and ending on the 31st day of December, 1999” of “commencing on the 1st day of June, 2002, and ending on the 31st day of December, 2002”.

81.—Schedule 24 to the Principal Act is hereby amended—

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

(a) in paragraph 4(4)(c) by the substitution for “10 per cent” of “20 per cent”,

(b) in paragraph 9A—

(i) in subparagraph (2) by the insertion after “shall be construed as” of “including”, and

(ii) in subparagraph (5) in clause (a) by the insertion after “government of the territory” of “except, in respect of taxes covered by those arrangements, to the extent that credit may not be given for that tax under those arrangements”,

and

(c) in subclauses (i) and (iii) of paragraph 9B(5)(b)—

(i) by the substitution of “controls” for “owns” in each place where it occurs, and

(ii) by the substitution of “voting power” for “ordinary share capital” in each place where it occurs.

82.—(1) Chapter 2 of Part 2 of the Principal Act is hereby amended by the insertion after section 23 of the following section: Company residence.

“23A.—(1) (a) In this section—

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

'relevant company' means a company—

- (i) which is under the control, whether directly or indirectly, of a person or persons who is or are—
 - (I) by virtue of the law of any relevant territory, resident for the purposes of tax in a relevant territory or relevant territories, and
 - (II) not under the control, whether directly or indirectly, of a person who is, or persons who are, not so resident,

or

- (ii) which is, or is related to, a company the principal class of the shares of which is substantially and regularly traded on one or more than one recognised stock exchange in a relevant territory or territories;

'relevant territory' means—

- (i) a Member State of the European Communities, 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 other than the State, means any tax imposed in that territory which corresponds to income tax or corporation tax.

(b) For the purposes of—

- (i) this section—
 - (I) a company shall be treated as related to another company if one company is a 50 per cent subsidiary of the other company or both companies are 50 per cent subsidiaries of a third company,
 - (II) a company shall be a 50 per cent subsidiary of another company if and so long as not less than 50 per cent of its ordinary share capital is owned directly or indirectly by that other company, and

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(III) sections 412 to 418 shall apply as Pt.1 S.82
those sections would apply for
the purposes of Chapter 5 of
Part 12 if—

(A) '50 per cent' were substi-
tuted for '75 per cent' in
each place where it occurs
in those sections, and

(B) subparagraph (iii) of
section 411(1)(c) were
deleted,

and

(ii) the definition of 'relevant company',
control shall be construed in accord-
ance with subsections (2) to (6) of
section 432 as if in subsection (6) of
that section for '5 or fewer partici-
pators' there were substituted—

(I) in so far as paragraph (i)(I) of
that definition is concerned,
'persons who, by virtue of the
law of any relevant territory
(within the meaning of section
23A), are resident for the pur-
poses of tax in a relevant terri-
tory or relevant territories', and

(II) in so far as paragraph (i)(II) of
that definition is concerned,
'persons not resident for the
purposes of tax in a relevant ter-
ritory (within the meaning of
section 23A)'.

(2) Subject to subsections (3) and (4), a company which is
incorporated in the State shall be regarded for the purposes of
the Tax Acts and the Capital Gains Tax Acts as resident in the
State.

(3) Subsection (2) shall not apply to a company incorporated
in the State if the company is a relevant company and—

(a) carries on a trade in the State, or

(b) is related to a company which carries on a trade in the
State.

(4) Notwithstanding subsection (2), a company which is
regarded for the purposes of any arrangements as resident in a
territory other than the State and not resident in the State shall
be treated for the purposes of the Tax Acts and the Capital
Gains Tax Acts as not resident in the State."

(2) This section shall apply—

(a) in the case of companies which are incorporated on or after
the 11th day of February, 1999, as on and from that day,
and

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(b) in the case of companies which were incorporated before the 11th day of February, 1999, as on and from the 1st day of October, 1999.

Amendment of section 882 (particulars to be supplied by new companies) of Principal Act.

83.—(1) The Principal Act is hereby amended in Chapter 2 of Part 38 by the substitution for section 882 of the following section:

“882.—(1) (a) In this section—

‘secretary’ includes persons mentioned in section 1044(2) and, in the case of a company not resident in the State, the agent, manager, factor or other representative of the company;

‘settlor’ and ‘settlement’ have the same meanings as in section 10;

‘tax’, in relation to a territory other than the State, means any tax imposed in that territory which corresponds to income tax or corporation tax;

‘ultimate beneficial owners’, in relation to a company, means—

- (i) the individual or individuals who have control of the company, or
- (ii) where a person, whether alone or together with other persons, who controls the company controls it in the capacity as the trustee of a settlement, any person who in relation to the settlement—
 - (I) is a settlor, or
 - (II) is, or can under any scheme or arrangement reasonably expect to become, a beneficiary under the settlement, or
 - (III) where such settlor or beneficiary, as the case may be, is a company, the ultimate beneficial owners of that company.

(b) For the purposes of this section, control shall be construed in accordance with section 432.

(2) Every company which is incorporated in the State or which commences to carry on a trade, profession or business in the State shall, in every case within 30 days of—

(a) the date on which it commences to carry on a trade, profession or business, wherever carried on,

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- (b) the date at which there is a material change in information previously delivered by the company under this section, and Pt.1 S.83
- (c) the giving of a notice to the company by an inspector requiring a statement under this section,

deliver to the Revenue Commissioners a statement in writing containing particulars of—

- (i) in the case of every company—
- (I) the name of the company,
 - (II) the address of the company's registered office,
 - (III) the address of its principal place of business,
 - (IV) the name and address of the secretary of the company,
 - (V) the date of commencement of the trade, profession or business,
 - (VI) the nature of the trade, profession or business,
 - (VII) the date up to which accounts relating to such trade, profession or business will be made up, and
 - (VIII) such other information as the Revenue Commissioners consider necessary for the purposes of the Tax Acts;
- (ii) in the case of a company which is incorporated, but not resident, in the State—
- (I) the name of the territory in which the company is, by virtue of the law of that territory, resident for tax purposes,
 - (II) where subsection (2) of section 23A does not apply by virtue of subsection (3) of that section, the name and address of the company referred to in that latter subsection which carries on a trade in the State, and
 - (III) where the company is treated as not resident in the State by virtue only of subsection (4) of section 23A—
 - (A) if the company is controlled by another company the principal class of the shares of which is substantially and regularly traded on one or more than one recognised stock exchange in a relevant territory (within the meaning of section 23A) or territories, the name of the other company and the address of its registered office, and

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(B) in any other case, the name and address of the individuals who are the ultimate beneficial owners of the company,

and

(iii) in the case of a company which is neither incorporated in the State nor resident in the State but which carries on a trade, profession or business in the State—

(I) the address of the company’s principal place of business in the State,

(II) the name and address of the agent, manager, factor or other representative of the company, and

(III) the date of commencement of the company’s trade, profession or business in the State.

(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, the Revenue Commissioners may give a notice in writing 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.”.

(2) This section shall apply—

(a) in the case of companies which are incorporated on or after the 11th day of February, 1999, as on and from that day, and

(b) in the case of companies which were incorporated before the 11th day of February, 1999, as on and from the 1st day of October, 1999.

Amendment of Chapter 2 (other corporation tax penalties) of Part 47 of Principal Act.

84.—(1) The Principal Act is hereby amended in Chapter 2 of Part 47—

(a) in section 1071 by the insertion after subsection (2) of the following subsection:

“(2A) (a) Where at any time not earlier than 3 months after the time at which a return is required to be delivered by a company in accordance with section 884, the company has failed to pay any penalty to which it is liable under subsection (1)(a) or (2) for failing to deliver the return, the secretary of the company shall, in addition to any penalty to which the secretary is liable under this section, be liable to pay such amount of any penalty to which the company is so liable as is not paid by the company.

(b) Where in accordance with paragraph (a) the secretary of a company pays any amount of a penalty to which the company is liable, the

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secretary shall be entitled to recover a sum equal to that amount from the company.”, Pt.1 S.84

(b) by the substitution for section 1073 of the following section:

“1073.—(1) Where a company fails to deliver a statement which it is required to deliver under section 882—

(a) the company shall be liable to a penalty of £500 and, if the failure continues after judgement has been given by the court before which proceedings for the penalty have been commenced, to a further penalty of £50 for each day on which the failure so continues, and

(b) the secretary of the company shall be liable to a separate penalty of £100.

(2) (a) Where at any time not earlier than 3 months after the time at which a statement is required to be delivered by a company in accordance with section 882, the company has failed to pay any penalty to which it is liable under subsection (1)(a) for failing to deliver the statement, the secretary of the company shall, in addition to any penalty to which the secretary is liable under subsection (1)(b), be liable to pay such amount of any penalty to which the company is so liable as is not paid by the company.

(b) Where in accordance with paragraph (a) the secretary of a company pays any amount of a penalty to which the company is liable, the secretary shall be entitled to recover a sum equal to that amount from the company.”,

and

(c) in section 1076 by the substitution for subsection (1) of the following subsection:

“(1) In this Chapter, ‘secretary’ includes—

(a) persons mentioned in section 1044(2) and, in the case of a company which is not resident in the State, the agent, manager, factor or other representative of the company, and

(b) in the case of a company the secretary (within the meaning of section 175 of the Companies Act, 1963) of which is not an individual resident in the State, an individual resident in the State who is a director of the company.”.

(2) This section shall apply as on and from the 1st day of March, 1999.

Amendment of sections 198, 710 and 734 of Principal Act.

85.—The Principal Act is hereby amended—

(a) in section 198(2), by the substitution of the following paragraphs for paragraphs (a) and (b):

“(a) as if in section 445 the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (8), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purpose of this section.’

and

(b) as if in section 446 the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (9), the Minister may give a certificate certifying that such trading operations of a company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purpose of this section.’

(b) in section 710(2), by the substitution of the following paragraph for paragraph (b):

“(b) In applying the definition of ‘foreign life assurance business’ in section 451(1) for the purposes of paragraph (a), section 446 shall apply as if the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (9), the Minister may give a certificate certifying that such trading operations of a company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purpose of this section.’

and

(c) in section 734(1)(c), by the substitution of the following subparagraphs for subparagraphs (i) and (ii):

“(i) in section 445 the following subsection were substituted for subsection (2) of that section:

‘(2) Subject to subsections (7) and (8), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purpose of this section.’

and

(ii) in section 446 the following subsection were substituted for subsection (2) of that section: Pt.1 S.85

‘(2) Subject to subsections (7) and (9), the Minister may give a certificate certifying that such trading operations of a company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purpose of this section.’”.

86.—(1) Section 707 of the Principal Act is hereby amended in subsection (1) by the substitution for paragraph (b) of the following: Amendment of section 707 (management expenses) of Principal Act.

“(b) no deduction shall be made under section 83(2)(b) other than in respect of the amount of any income (other than receipts from premiums) which, if the profits of the company were chargeable to corporation tax under Case I of Schedule D, would be taken into account in computing those profits and any such deduction from the amount treated as expenses of management under that section shall not be regarded as reducing acquisition expenses within the meaning of section 708.”.

(2) This section shall be deemed to have applied as respects income accruing for accounting periods commencing on or after the 1st day of January, 1999.

Chapter 8

Capital Gains Tax

87.—(1) Section 541A (inserted by the Finance Act, 1998) of the Principal Act is hereby amended— Amendment of section 541A (treatment of debts on a change in currency) of Principal Act.

(a) in subsection (2) by the substitution of “Subject to subsection (4) and notwithstanding any other provision of the Capital Gains Tax Acts” for “Notwithstanding any other provision of the Capital Gains Tax Acts”,

and

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

“(4) (a) In this subsection—

‘assurance company’ has the meaning assigned to it in section 706;

‘life business fund’ has the meaning assigned to it in section 719;

‘special investment fund’ has the meaning assigned to it in section 723;

‘special investment scheme’ has the meaning assigned to it in section 737;

‘undertaking for collective investment’ has the meaning assigned to it in section 738.

(b) Where the person referred to in subsection (1) is a company and either—

- (i) the company is an assurance company and the debt referred to in that subsection is an asset of the company's life business fund, or
- (ii) the company is an undertaking for collective investment and the debt referred to in that subsection is an asset of the undertaking,

subsection (1) shall not apply and where the day (in this paragraph referred to as 'the deemed disposal day') on which, but for this paragraph, the debt would be deemed to be disposed of and reacquired in accordance with subsection (1), is not the day on which an accounting period of the company ends—

(I) in case of an assurance company, section 719(2) shall apply in respect of the debt as if, for this purpose only, the deemed disposal day was the day on which an accounting period of the company ends and the chargeable gain or allowable loss thereby accruing shall be included in the net amount (within the meaning of section 720) in respect of the accounting period in which the deemed disposal day falls, and

(II) in case of an undertaking for collective investment, section 738(4)(a) shall apply in respect of the debt as if, for this purpose only, the deemed disposal day was the day on which an accounting period of the company ends and the chargeable gain or allowable loss thereby accruing shall be included in the net amount (within the meaning of section 738(4)(b)) in respect of the accounting period in which the deemed disposal day falls.

(c) Where the person referred to in subsection (1) is an undertaking for collective investment and is not a company, subsection (2) shall not apply but the chargeable gain or allowable loss which accrues to the undertaking by virtue of subsection (1) shall be treated as accruing to the undertaking by virtue of paragraph (a) of section 738(4) and the provisions of that section shall apply accordingly.

(d) Subsection (2) shall not apply to a debt which is—

- (i) an asset of a special investment fund of an assurance company, or

- (ii) an asset which is subject to any trust created pursuant to a special investment scheme.”.

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(2) This section shall be deemed to have applied as on and from the 31st day of December, 1998.

88.—(1) Part 19 of the Principal Act is hereby amended in Chapter 3 by the insertion after section 579 of the following sections:

Amendment of Chapter 3 (assets held in a fiduciary or representative capacity, inheritances and settlements) of Part 19 of Principal Act.

“Attribution of gains to beneficiaries.

579A.—(1) (a) For the purposes of this section and the following sections of this Chapter, ‘capital payments’ means any payment which is not chargeable to income tax on the recipient or, in the case of a recipient who is neither resident nor ordinarily resident in the State, any payment received otherwise than as income, but does not include a payment under a transaction entered into at arm’s length.

(b) In paragraph (a) references to a payment include references to the transfer of an asset and the conferring of any benefit, and to any occasion on which settled property becomes property to which section 567(2) applies.

(c) The amount of a capital payment made by way of loan, and of any other capital payment which is not an outright payment of money, shall be taken to be equal to the value of the benefit conferred by it.

(d) A capital payment shall be treated as received by a beneficiary from the trustees of a settlement if—

- (i) the beneficiary receives it from the trustees directly or indirectly,

- (ii) it is directly or indirectly applied by the trustees in payment of any debt of the beneficiary or is otherwise paid for the benefit of the beneficiary, or
- (iii) it is received by a third party at the beneficiary's direction.

(2) Subject to subsection (10), this section shall apply to a settlement for any year of assessment during which the trustees are, at no time, neither resident nor ordinarily resident in the State.

(3) There shall be computed in respect of every year of assessment for which this section applies the amount on which the trustees would have been chargeable to capital gains tax under section 31 if they had been resident and ordinarily resident in the State in the year of assessment and that amount, together with the corresponding amount in respect of any earlier such year of assessment, so far as not already treated under subsection (4) or section 579F(2) as chargeable gains accruing to beneficiaries under the settlement, is in this section referred to as 'the trust gains for the year of assessment'.

(4) Subject to this section, the trust gains for a year of assessment shall be treated for the purposes of the Capital Gains Tax Acts as chargeable gains accruing in the year of assessment to beneficiaries of the settlement who receive capital payments from the trustees in the year of assessment or have received such payments in any earlier year of assessment.

(5) The attribution of chargeable gains to beneficiaries under subsection (4) shall be made in proportion to, but shall not exceed, the amounts of capital payments received by them.

(6) A capital payment shall be left out of account for the purposes of subsections (4) and (5) to the extent that chargeable gains have, by reason of the payment, been treated as accruing to the recipient in an earlier year of assessment.

(7) A beneficiary shall not be charged to tax on chargeable gains treated by virtue of

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subsection (4) as accruing to him or her in any year of assessment unless he or she is domiciled in the State at some time in that year of assessment. Pt.1 S.88

(8) For the purposes of this section a settlement arising under a will or intestacy shall be treated as made by the testator or, as the case may be, intestate at the time of death.

(9) In any case in which the amount of any capital gains tax payable by a beneficiary under a settlement in accordance with this section is paid by the trustees of the settlement, such amount shall not for the purposes of income tax or capital gains tax be regarded as a payment to the beneficiary.

(10) Subsection (2) shall not apply in relation to any year of assessment beginning before the 6th day of April, 1999, and the references in subsections (4) and (5) to capital payments received by beneficiaries do not include references to any payments received before the 11th day of February, 1999, or any payments received on or after that date so far as they represent a chargeable gain which accrued to the trustees in respect of a disposal by the trustees before the 11th day of February, 1999.

(11) Where this section applies so as to charge a person to tax on chargeable gains, section 579 shall not apply in respect of those chargeable gains.

Trustees ceasing to be resident in the State.

579B.—(1) In this section and in the following sections of this Chapter—

‘arrangements’ means arrangements having the force of law by virtue of section 826 (as extended to capital gains tax by section 828);

‘the new assets’ and ‘the old assets’ have the meaning assigned, respectively, to them by section 597(4).

(2) This section shall apply where the trustees of a settlement become at any time (hereafter in this section referred to as the ‘relevant time’) neither resident nor ordinarily resident in the State.

(3) The trustees to whom this section applies shall, for the purposes of the Capital Gains Tax Acts, be deemed—

(a) to have disposed of the defined assets immediately before the relevant time, and

(b) immediately to have reacquired them,

at their market value at that time.

(4) Subject to subsections (5) and (6), the defined assets are all assets constituting settled property of the settlement immediately before the relevant time.

(5) If immediately after the relevant time—

(a) the trustees carry on a trade in the State through a branch or agency, and

(b) any assets are situated in the State and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency,

the assets falling within paragraph (b) shall not be defined assets.

(6) Assets shall not be defined assets if—

(a) they are of a description specified in any arrangements, and

(b) the trustees would, were they to dispose of them immediately before the relevant time, fall to be regarded for the purposes of the arrangements as not being liable in the State to tax on gains accruing to them on the disposal.

(7) Notwithstanding anything in that section—

(a) section 597 shall not apply where the trustees—

(i) have disposed of the old assets, or their interest in them, before the relevant time, and

(ii) acquire the new assets, or their interest in them, after the relevant time, and

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- (b) where under section 597 a chargeable gain accruing on a disposal of old assets is treated as not accruing until a time later (being the time that the new assets cease to be used for the purposes of a trade or other purposes as referred to in subsection (2) of that section) than the time of the disposal, and, but for this subsection, the later time would fall after the relevant time, the chargeable gain shall be treated as accruing immediately before the relevant time,

unless the new assets are excepted from the application of this subsection by subsection (8).

(8) If at the time when the new assets are acquired—

- (a) the trustees carry on a trade in the State through a branch or agency, and
- (b) any new assets, which immediately after the relevant time, are situated in the State and either used in or for the purposes of the trade or used or held for the purposes of the branch or agency,

the assets falling within paragraph (b) shall be excepted from the application of subsection (7).

Death of trustee:
special rules.

579C.—(1) Subsection (2) applies where—

- (a) section 579B applies as a result of the death of a trustee of a settlement, and
- (b) within the period of 6 months beginning with the death, the trustees of the settlement become resident and ordinarily resident in the State.

(2) Section 579B shall apply as if the defined assets were restricted to such assets (if any) as—

- (a) would be defined assets apart from this section, and
- (b) fall within subsection (3).

(3) Assets fall within this subsection if they were disposed of by the trustees in the period which—

- (a) begins with the death, and
- (b) ends when the trustees become resident and ordinarily resident in the State.

(4) Where—

- (a) at any time the trustees of a settlement become resident and ordinarily resident in the State as a result of the death of a trustee of the settlement, and
- (b) section 579B applies as regards the trustees of the settlement in circumstances where the relevant time (within the meaning of that section) falls within the period of 6 months beginning with the death,

that section shall apply as if the defined assets were restricted to such assets (if any)—

- (i) as would be defined assets but for this section, and
- (ii) which the trustees acquired in the period beginning with the death and ending with the relevant time.

Past trustees:
liability for tax.

579D.—(1) In this section ‘specified period’, in relation to a year of assessment, means the period beginning with the specified return date for the year of assessment (within the meaning of section 950) and ending 3 years after the time when a return under section 951 for the year of assessment is delivered to the appropriate inspector (within the meaning of section 950).

(2) For the purposes of this section—

- (a) where the relevant time (within the meaning of section 579B) falls within the period of 12 months beginning with the 11th day of February, 1999, the relevant period is the period beginning with that day and ending with the relevant time, and

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(b) in any other case, the relevant period is the period of 12 months ending with the relevant time.

(3) This section shall apply at any time on or after the 11th day of February, 1999, where—

(a) section 579B applies as regards the trustees (in this section referred to as 'migrating trustees') of a settlement, and

(b) any tax, which is payable by the migrating trustees in respect of a chargeable gain accruing to them for a year of assessment (in this section referred to as 'the year of assessment concerned') by virtue of section 579B(3), is not paid within 6 months after the date on or before which the tax is due and payable.

(4) The Revenue Commissioners may, at any time before the end of the specified period in relation to the year of assessment concerned, serve on any person to whom subsection (5) applies, a notice—

(a) stating the amount which remains unpaid of the tax payable by the migrating trustees for the year of assessment concerned, and

(b) requiring that person to pay that amount within 30 days of the service of the notice.

(5) This subsection applies to any person who, at any time within the relevant period, was a trustee of the settlement, other than such a person who—

(a) ceased to be a trustee of the settlement before the end of the relevant period, and

(b) shows that, when he or she (or in the case of a company, the company) ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the State.

(6) Any amount which a person is required to pay by a notice under this section—

(a) may be recovered by that person from the migrating trustees,

(b) shall not be allowed as a deduction in computing income, profits, gains or losses for any tax purposes, and

(c) may be recovered from that person as if it were tax due by such person.

Trustees ceasing to be liable to Irish tax.

579E.—(1) This section shall apply where the trustees of a settlement, while continuing to be resident and ordinarily resident in the State, become at any time (in this section referred to as ‘the time concerned’) on or after the 11th day of February, 1999, trustees who fall to be regarded for the purposes of any arrangements—

(a) as resident in a territory outside the State, and

(b) as not liable in the State to tax on gains accruing on disposals of assets (in this section referred to as ‘relevant assets’) which constitute settled property of the settlement and fall within descriptions specified in the arrangements.

(2) The trustees shall be deemed for all the purposes of the Capital Gains Tax Acts—

(a) to have disposed of their relevant assets immediately before the time concerned, and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Notwithstanding anything in that section—

(a) section 597 shall not apply where—

(i) the new assets are, or an interest in them is, acquired by the trustees of a settlement,

(ii) at the time of the acquisition the trustees are resident and ordinarily resident in the State and fall to be regarded

for the purposes of any arrangements as resident in a territory outside the State,

- (iii) the assets are of a description specified in those arrangements, and
- (iv) the trustees would, were they to dispose of the assets immediately after the acquisition, fall to be regarded for the purposes of the arrangements as not being liable in the State to tax on gains accruing to them on the disposal,

and

- (b) where under section 597 a chargeable gain accruing on a disposal of the old assets is treated as not accruing until a time later (being the time that the new assets cease to be used for the purposes of a trade or other purposes as set out in subsection (2) of that section) than the time of the disposal, and but for this paragraph, the latter time would fall after the time concerned, the chargeable gain shall be treated as accruing immediately before the time concerned, if—
 - (i) the new assets are of a description specified in any arrangements, and
 - (ii) the trustees would, were they to dispose of the new assets immediately after the time concerned, fall to be regarded for the purposes of those arrangements as not being liable in the State to tax on gains accruing to them on the disposal.

Migrant settlements.

579F.—(1) Where a period (in this section referred to as ‘a non-resident period’) of one or more years of assessment for which section 579A applies to a settlement, succeeds a period (in this section referred to as ‘a resident period’) of one or more years of assessment for each of which section 579A does not apply to the settlement, a capital payment received by a beneficiary in the resident period shall be disregarded for the purposes of section 579A if it was not made in anticipation of a disposal made by the trustees in the non-resident period.

(2) Where—

- (a) a non-resident period is succeeded by a resident period, and
- (b) the trust gains for the last year of assessment of the non-resident period are not, or not wholly, treated as chargeable gains accruing to beneficiaries, then, subject to subsection (3), those trust gains, or the outstanding part of them, shall be treated as chargeable gains accruing in the first year of assessment of the resident period, to beneficiaries of the settlement who receive capital payments from the trustees in that year of assessment, and so on for the second and subsequent years until the amount treated as accruing to the beneficiaries is equal to the amount of the trust gains for the last year of assessment of the non-resident period.

(3) Subsections (5) and (7) of section 579A shall apply in relation to subsection (2) as they apply in relation to subsection (4) of that section.”.

(2) This section shall apply as on and from the 11th day of February, 1999.

Amendment of Chapter 4 (shares and securities) of Part 19 of Principal Act.

89.—(1) Part 19 of the Principal Act is hereby amended in Chapter 4 by the substitution for section 590 of the following section:

“Attribution to participators of chargeable gains accruing to non-resident company.

590.—(1) In this section—

- (a) ‘participator’, in relation to a company, has the meaning assigned to it by section 433(1);
- (b) references to a person’s interest as a participator in a company are references to the interest in the company which is represented by all the factors by reference to which the person falls to be treated as such a participator; and
- (c) references to the extent of such an interest are references to the proportion of the interests as participators of all the participators in the company (including any who are not resident or ordinarily resident in the State) which on a just and reasonable apportionment is represented by that interest.

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(2) For the purposes of this section, where— Pt.1 S.89

- (a) the interest of any person in a company is wholly or partly represented by an interest (in this subsection referred to as the 'person's beneficial interest') which the person has under any settlement, and
- (b) the person's beneficial interest is the factor, or one of the factors, by reference to which the person would be treated, apart from this subsection, as having an interest as a participator in the company,

the interest as a participator in the company which would be that person's shall be deemed, to the extent that it is represented by the person's beneficial interest, to be an interest of the trustees of the settlement, and not an interest of the person's, and references in this section, in relation to a company, to a participator shall be construed accordingly.

(3) This section shall apply as respects chargeable gains accruing to a company—

- (a) which is not resident in the State, and
- (b) which would be a close company if it were resident in the State.

(4) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident or ordinarily resident in the State, who, if an individual, is domiciled in the State, and who is a participator in the company, shall be treated for the purposes of the Capital Gains Tax Acts as if a part of the chargeable gain had accrued to that person.

(5) The part of the chargeable gain referred to in subsection (4) shall be equal to the proportion of that gain that corresponds to the extent of the participator's interest as a participator in the company.

(6) Subsection (4) shall not apply in the case of any participator in the company to which the gain accrues where the aggregate amount falling under that subsection to be apportioned to the participator and to persons connected with the participator does not exceed one-twentieth of the gain.

(7) This section shall not apply in relation to—

- (a) a chargeable gain accruing on the disposal of assets, being tangible property, whether movable or immovable, or a lease of such property, where the

property was used, and used only, for the purposes of a trade carried on by the company wholly outside the State,

- (b) a chargeable gain accruing on the disposal of currency or of a debt within section 541(6), where the currency or debt is or represents money in use for the purposes of a trade carried on by the company wholly outside the State, or
- (c) a chargeable gain in respect of which the company is chargeable to capital gains tax by virtue of section 29 or to corporation tax by virtue of section 25(2)(b).

(8) Where—

- (a) any amount of capital gains tax is paid by a person in pursuance of subsection (4), and
- (b) an amount in respect of the chargeable gain is distributed, whether by way of dividend or distribution of capital or on the dissolution of the company, within 2 years from the time when the chargeable gain accrued to the company,

that amount of tax, so far as neither reimbursed by the company nor applied as a deduction under subsection (9), shall be applied for reducing or extinguishing any liability of the person to income tax in respect of the distribution or (in the case of a distribution falling to be treated as a disposal on which a chargeable gain accrues to the person) to any capital gains tax in respect of the distribution.

(9) The amount of capital gains tax paid by a person in pursuance of subsection (4), so far as neither reimbursed by the company nor applied under subsection (8) for reducing any liability to tax, shall be allowable as a deduction in the computation under the Capital Gains Tax Acts of a gain accruing on the disposal by the person of any asset representing the person's interest as a participator in the company.

(10) In ascertaining for the purposes of subsection (8) the amount of income tax chargeable on any person for any year of assessment on or in respect of a distribution, any such distribution mentioned in that subsection which falls to be treated as income of that person for that year of assessment shall be regarded as forming the highest part of the income on which the person is charged to tax for the year of assessment.

(11) To the extent that it would reduce or extinguish chargeable gains accruing by virtue of this section to a person in a year of assessment, this section shall apply in relation to a loss accruing to the company on the disposal of an asset in that year of assessment as it would apply if a gain instead of a loss had accrued to the company on the disposal, but shall only apply in relation to that person; and, subject to the preceding provisions of this subsection, this section shall not apply in relation to a loss accruing to the company.

(12) Where the person who is a participator in the company at the time when the chargeable gain accrued to the company is itself a company which is not resident in the State but which would be a close company if it were resident in the State, an amount equal to the amount apportioned under subsection (5) out of the chargeable gain to the participating company's interest as a participator in the company to which the gain accrues shall be further apportioned among the participators in the participating company according to the extent of their respective interests as participators, and subsection (4) shall apply to them accordingly in relation to the amounts further apportioned, and so on through any number of companies.

(13) The persons treated by this section as if a part of a chargeable gain accruing to a company had accrued to them shall include trustees who are participators in the company, or in any company amongst the participators in which the gain is apportioned under subsection (12), if when the gain accrued to the company the trustees are neither resident nor ordinarily resident in the State.

(14) Where any tax payable by any person by virtue of subsection (4) is paid by the company to which the chargeable gain accrues, or in a case under subsection (12) is paid by any such other company, the amount so paid shall not, for the purposes of income tax, capital gains tax or corporation tax, be regarded as a payment to the person by whom the tax was originally payable.

(15) For the purposes of this section, the amount of the gain or loss accruing at any time to a company which is not resident in the State shall be computed (where it is not the case) as if the company were within the charge to corporation tax on capital gains.

(16) (a) In this subsection—

'group' shall be construed in accordance with subsections (1) (excluding paragraph (a)), (3) and (4) of section 616;

'non-resident group' of companies—

- (i) in the case of a group none of the members of which is resident in the State, means that group, and
- (ii) in the case of a group 2 or more members of which are not resident in the State, means the members not resident in the State.

(b) For the purposes of this section—

- (i) sections 617 to 620 shall apply in relation to non-resident companies which are members of a non-resident group of companies as they apply in relation to companies resident in the State which are members of a group of companies, and
- (ii) sections 623 and 625 shall apply as if for any reference in those sections to a group of companies there were substituted a reference to a non-resident group of companies, and as if references to companies were references to companies not resident in the State.”.

(2) This section shall apply as respects chargeable gains accruing to a company on or after the 11th day of February, 1999.

Amendment of Chapter 7 (other reliefs and exemptions) of Part 19 of Principal Act.

90.—(1) Part 19 of the Principal Act is hereby amended in Chapter 7—

(a) in section 613—

- (i) in subsection (4)(a) by the substitution for “No chargeable gain” of “Subject to subsection (5), no chargeable gain”, and
- (ii) by the insertion after subsection (4) of the following subsections:

“(5) Subsection (4)(a) shall not apply—

- (a) to the disposal of an interest in settled property, other than such a disposal treated under subsection (4)(b) as made in consideration of obtaining the settled property, if at the time of the disposal the trustees are neither resident nor ordinarily resident in the State,
- (b) if the settlement falls within subsection (6), or

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(c) the property comprised in the settlement is or includes property that is derived directly or indirectly from a settlement falling within subsection (6). Pt.1 S.90

(6) (a) In this subsection ‘arrangements’ means arrangements having the force of law by virtue of section 826 (as extended to capital gains tax by section 828).

(b) A settlement falls within this subsection if there has been a time when the trustees of the settlement—

(i) were neither resident nor ordinarily resident in the State, or

(ii) fell to be regarded for the purposes of any arrangements as resident in a territory outside the State.”,

and

(b) by the insertion after section 613 of the following section:

“Supplementary provisions.

613A.—(1) Subject to this section, subsection (2) shall apply where—

(a) section 579B applies as regards the trustees of a settlement,

(b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that subsection (4)(a) of section 613 does not apply by virtue of subsection (5)(a) of that section, and

(c) the interest was created for the benefit of the person making the disposal or that person otherwise acquired it, before the relevant time.

(2) For the purposes of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—

(a) disposed of it immediately before the relevant time, and

(b) immediately reacquired it,

at its market value at that time.

(3) Subsection (2) shall not apply if section 579E applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell

before the time when the interest was created for the benefit of the person disposing of it or when the person otherwise acquired it.

(4) Subsection (6) applies where—

(a) section 579B applies as regards the trustees of a settlement,

(b) after the relevant time (within the meaning of that section) a person disposes of an interest created by or arising under the settlement and the circumstances are such that subsection (4)(a) of section 613 does not apply by virtue of subsection (5)(a) of that section,

(c) the interest was created for the person's benefit, or the person otherwise acquired it, before the relevant time, and

(d) section 579E applied as regards the trustees in circumstances where the time concerned (within the meaning of that section) fell in the relevant period.

(5) The relevant period is the period which—

(a) begins when the interest was created for the benefit of the person disposing of it or when the person otherwise acquired it, and

(b) ends with the relevant time.

(6) For the purposes of calculating any chargeable gain accruing on the disposal of the interest, the person disposing of it shall be treated as having—

(a) disposed of it immediately before the time determined in accordance with subsection (7), and

(b) immediately reacquired it,

at its market value at that time.

(7) The time mentioned in subsection (6) is—

(a) where there is only one such time, the time concerned, or

(b) where there is more than one time concerned, because section 579E

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applied more than once, the Pt.1 S.90
earliest time concerned.

(8) Where subsection (2) applies, subsection (6) shall not apply.”.

(2) This section shall apply as respects the disposal on or after the 11th day of February, 1999, of an interest created by or arising under a settlement.

91.—(1) Section 649A of the Principal Act is hereby amended in subsection (2)—

Amendment of section 649A (relevant disposals: rate of charge) of Principal Act.

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

“(ii) being a disposal, at any time in the period beginning on the 10th day of March, 1999, and ending on the 5th day of April, 2002, of land—

(I) to—

(A) a housing authority (within the meaning of section 23 of the Housing (Miscellaneous Provisions) Act, 1992),

(B) the National Building Agency Limited (being the company referred to in section 1 of the National Building Agency Limited Act, 1963), or

(C) 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,

(II) 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, or

(III) 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.”,

and

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

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“(c) This paragraph applies to a relevant disposal being a disposal—

(i) by any person (‘the disponent’) to a person who is connected with the disponent, or

(ii) of land under a relevant contract in relation to the disposal.”.

(2) This section shall apply to a relevant disposal made on or after the 10th day of March, 1999.

Amendment of Chapter 5 (capital gains tax: returns, information, etc.) of Part 38 of Principal Act.

92.—(1) Part 38 of the Principal Act is hereby amended in Chapter 5—

(a) in section 917—

(i) by the substitution for “within section 579 or 590” of “within sections 579 to 579F and section 590”, and

(ii) by the substitution for “under section 579 or 590” of “under sections 579 to 579F or section 590”,

(b) by the insertion after section 917 of the following sections:

“Return of property transfers to non-resident trustees.

917A.—(1) In this section and in sections 917B and 917C ‘appropriate inspector’ shall be construed in accordance with section 950.

(2) This section applies where—

(a) on or after the 11th day of February, 1999, a person (in this section referred to as the ‘transferor’) transfers property to the trustees of a settlement otherwise than under a transaction entered into at arm’s length,

(b) the trustees of the settlement are neither resident nor ordinarily resident in the State at the time the property is transferred, and

(c) the transferor knows or has reason to believe, that the trustees are not so resident and ordinarily resident.

(3) Where this section applies, the transferor shall, before the expiry of 3 months beginning with the day on which the transfer is made, deliver to the appropriate inspector a statement which—

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(a) identifies the settlement, and Pt.1 S.92

(b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.

(4) Where a transferor fails—

(a) to make a statement required to be made by the transferor in accordance with subsection (3), or

(b) to include in such a statement the details referred to in subsection (3),

the transferor shall in respect of each such failure be liable to a penalty of £2,000.

(5) Penalties under subsection (4) may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in like manner as in summary proceedings for the recovery of any fine or penalty under any act relating to the excise.”.

“Return by settlor in relation to non-resident trustees.

917B.—(1) In this section and in section 917C ‘arrangements’ means arrangements having the force of law by virtue of section 826 (as extended to capital gains tax by section 828);

(2) This section applies where a settlement is created on or after the 11th day of February, 1999, and at the time it is created—

(a) the trustees are neither resident nor ordinarily resident in the State, or

(b) the trustees are resident and ordinarily resident in the State but fall to be regarded for the purposes of any arrangements as resident in a territory outside the State.

(3) Where this section applies, any person who—

(a) is a settlor in relation to the settlement at the time it is created, and

- (b) at that time fulfils the condition mentioned in subsection (4),

shall, before the expiry of the period of 3 months beginning with the day on which the settlement is created, deliver to the appropriate inspector a statement specifying—

- (i) the day on which the settlement was created;
- (ii) the name and address of the person making the statement; and
- (iii) the names and addresses of the persons who are the trustees immediately before the delivery of the statement.

(4) The condition is that the person concerned is domiciled in the State and is either resident or ordinarily resident in the State.

(5) Where a person fails—

- (a) to make a statement required to be made by the person in accordance with subsection (2), or
- (b) to include in such a statement the details referred to in subsection (2), the person shall in respect of each such failure be liable to a penalty of £2,000.

(6) Penalties under subsection (5) may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in like manner as in summary proceedings for the recovery of any fine or penalty under any act relating to the excise.”.

“Return by certain trustees.

917C.—(1) This section applies where—

- (a) the trustees of a settlement become at any time (in this section referred to as ‘the relevant time’) on or after the 11th day of February, 1999, neither resident nor ordinarily resident in the State, or
- (b) the trustees of a settlement, while continuing to be resident and ordinarily

resident in the State, Pt.1 S.92
 become at any time (in
 this section also referred
 to as 'the relevant time')
 on or after the 11th day of
 February, 1999, trustees
 who fall to be regarded for
 the purposes of any
 arrangements as resident
 in a territory outside the
 State.

(2) Where this section applies, any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of 3 months beginning with the day when the relevant time falls, deliver to the appropriate inspector a statement specifying—

- (a) the day on which the settlement was created,
- (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the statement, and
- (c) the names and addresses of the persons who are the trustees immediately before the delivery of the statement.

(3) Where a person fails—

- (a) to make a statement required to be made by the person in accordance with subsection (2), or
- (b) to include in such a statement the details referred to in subsection (2), the person shall in respect of each such failure be liable to a penalty of £2,000.

(4) Penalties under subsection (3) may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in like manner as in summary proceedings for the recovery of any fine or penalty under any act relating to the excise.”.

(2) This section shall apply as on and from the 11th day of February, 1999.

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Amendment of
Schedule 15 (list of
bodies for purposes
of section 610) to
Principal Act.

93.—Schedule 15 to the Principal Act is hereby amended in Part 1 by the insertion of the following paragraph after paragraph 32:

“33. National Rehabilitation Board.”.

PART 2

Customs and Excise

Chapter 1

Mineral Oil Tax

Interpretation
(Chapter 1).

94.—(1) In this Chapter and in *Schedule 2*, save where the context otherwise requires—

“additive” means any product (other than hydrocarbon oil, liquefied petroleum gas or substitute fuel) which may be added to—

- (a) hydrocarbon oil,
- (b) liquefied petroleum gas, or
- (c) substitute fuel,

as an extender or for the purpose of improving performance or for any other purpose, and cognate words shall be construed accordingly;

“agricultural tractor” means a mechanically propelled vehicle which is designed or constructed primarily for use for agricultural purposes;

“alumina” means aluminium oxide;

“ASTM” means American Society for Testing and Materials;

“authorised warehousekeeper” has the meaning assigned to it by section 103 of the Finance Act, 1992;

“aviation gasoline” means light oil which—

- (a) is specially manufactured as fuel for aircraft,
- (b) is not normally used in motor vehicles, and
- (c) is delivered for use solely as fuel for aircraft;

“biofuel” includes products manufactured or produced from oil seeds, cereals or other plant material for use or used as fuel for engines or motors;

“combustion in the engine of a motor vehicle” shall be construed as including internal combustion in such engine and external combustion as fuel for such engine;

“the Commissioners” means the Revenue Commissioners;

“the Directive” means Council Directive No. 92/81/EEC of 19 October, 1992¹, as amended by Council Directive No. 94/74/EEC of 22 December, 1994²;

¹ O.J. No. L316 of 31 October, 1992, p.12

² O.J. No. L365 of 31 December, 1994, p.46

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“fuel oil” means heavy oil, the viscosity of which as determined by the Redwood No. 1 Viscometer at 38° Celsius is more than 115 seconds, the ash content of which is less than 0.2 per cent when tested in accordance with the method known as the ASTM D482 method or other equivalent method approved by the Commissioners and the colour of which is darker than 8 when tested in accordance with the method known as the ASTM D1500 method or other equivalent method approved by the Commissioners;

“glasshouse” means any building or structure made substantially of glass or other transparent or translucent material which is capable of being artificially heated and which is used for growing horticultural produce;

“heavy oil” means hydrocarbon oil other than light oil;

“horticultural produce” means fruit, vegetables (including fungi) of a kind grown for human consumption, flowers, pot plants, herbs, seeds, bulbs, trees and shrubs;

“horticultural producer” means a person growing horticultural produce;

“hydrocarbon oil” includes petroleum oil and oil produced from coal, shale, peat, or any other bituminous substance, and all liquid hydrocarbons, but does not include any oil which is a hydrocarbon or a bituminous or asphaltic substance and is, when tested in a manner prescribed by the Commissioners, solid or semi-solid at a temperature of 15° Celsius;

“land” includes any structure on land;

“leaded petrol” means light oil which—

(a) contains more than 0.013 grammes of lead per litre as established in accordance with the provisions of Council Directive No. 85/210/EEC of 20 March, 1985¹, and

(b) is not aviation gasoline;

“light oil” means hydrocarbon oil of which, when tested in accordance with the method known as the ASTM D86 method or other equivalent method approved by the Commissioners, not less than 50 per cent by volume distils at a temperature not exceeding 185° Celsius or of which not less than 95 per cent by volume distils at a temperature not exceeding 240° Celsius or which, when tested in accordance with the method known as the ASTM D93 or other equivalent method approved by the Commissioners has a flashpoint of less than 22.8° Celsius but does not include white spirit or light oil which is charged as heavy oil in accordance with *section 96(4)*;

“liquefied petroleum gas” includes methane;

“marker” means a combination of chemical compounds added, or to be added, to mineral oils primarily for the purpose of the identification of such oils for excise duty purposes;

“Member State” means a Member State of the European Union;

¹ O.J. No. L96 of 3 April, 1985, p.25

“methane” means a colourless, odourless, flammable gas, having the chemical formula CH₄, of density 0.7168 grammes per litre and a boiling point of -161.4° Celsius;

“mineral oil” means hydrocarbon oil, liquefied petroleum gas, substitute fuel and additives;

“the Minister” means the Minister for Finance;

“mobile concrete pumping equipment” means a vehicle which is designed, constructed or adapted solely for pumping concrete and which is not used for any purpose on roads other than for travel or for pumping concrete;

“mobile crane” means a vehicle which is designed, constructed or adapted solely for lifting or elevating goods and which is not used for any purpose on roads other than for travel or for lifting or elevating goods;

“mobile well drilling equipment” means a vehicle which is designed, constructed or adapted solely for well drilling purposes and which is not used for any purpose on roads other than for travel or for well drilling;

“motor” means any device that converts mineral oil into mechanical energy to produce motion and includes an engine of a motor vehicle and a stationary engine;

“motor octane number” means the motor octane number measured in accordance with the methods outlined in the Irish Standard I.S./EN 228: 1994 or other equivalent method approved by the Commissioners;

“motor vehicle” means a mechanically propelled vehicle which is designed, constructed or modified to be suitable for use on roads, including any vehicle which is designed, constructed or modified to be suitable for traction on a road by a mechanically propelled vehicle, but does not include an agricultural tractor or a road roller or an off-road dumper, or a mobile crane or mobile well drilling equipment or mobile concrete pumping equipment;

“officer” means an officer of the Commissioners;

“off-road dumper” means a vehicle exceeding 3 metres cubed in capacity, level loaded, designed and constructed primarily 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 materials and incapable by reason of its design and construction of exceeding a speed of 55 kilometres per hour on a level road under its own power and which is the subject of a special permit under Article 17 of the Road Traffic (Construction, Equipment and Use of Vehicles) Regulations, 1963 (S.I. No. 190 of 1963);

“prescribed” means prescribed by regulations made by the Commissioners under *section 104*;

“private pleasure craft” means any craft used by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities;

“private pleasure flying” means the use of an aircraft by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities;

“producing”, in relation to mineral oils, includes manufacturing, refining, recycling, subjecting to a specific process within the meaning of paragraph 1 of Article 5 of the Directive, and any other method of processing and obtaining of mineral oil from any natural source and “production” and other cognate words shall be construed accordingly;

“prohibited goods” means any machinery, apparatus, equipment, vessel, substance or other thing which is being used, or was used, or is intended to be used—

- (a) in the removal from any mineral oil of any prescribed marker or any substance prohibited by regulations made under *section 104*, or
- (b) for the purpose of impeding the identification in any mineral oil of any prescribed marker;

“propellant” means for combustion in the engine of a motor vehicle;

“recycle”, in relation to mineral oil, means to undergo any process of restoration which renders it suitable for reuse and cognate words shall be construed accordingly;

“research octane number” means the research octane number measured in accordance with the methods outlined in the Irish Standard I.S./EN 228: 1994 or other equivalent method approved by the Commissioners;

“special container” means any container fitted with specially designed apparatus for refrigeration, oxygenation, thermal insulation or other systems;

“standard tank”, in relation to a motor vehicle, means—

- (a) a tank of a type permanently fixed by the manufacturer to all motor vehicles of the same type as the vehicle concerned and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems,
- (b) a gas tank fitted to a motor vehicle designed for the direct use of gas as a fuel and a tank fitted to any other system with which the vehicle may be equipped, or
- (c) a tank of a type permanently fixed by the manufacturer to all containers of the same type as the container concerned and whose permanent fitting enables fuel to be used directly for the operation, during transport, of the refrigeration systems or other systems with which a special container is equipped;

“substitute fuel” means any product, including biofuel, in liquid form, manufactured, produced or intended for use or used as fuel

for a motor or as heating fuel but does not include an additive, hydrocarbon oil or liquefied petroleum gas;

“super unleaded petrol” means light oil which is not leaded petrol and which has a research octane number of 96 or more and a motor octane number of 86 or more;

“tax warehouse” has the meaning assigned to it by section 103 of the Finance Act, 1992;

“unleaded petrol” means light oil which—

- (a) contains not more than 0.013 grammes of lead per litre as established in accordance with the provisions of Council Directive No. 85/210/EEC of 20 March, 1985,
 - (b) has a research octane number of less than 96 or a motor octane number of less than 86, and
 - (c) is not aviation gasoline.
- (2) (a) In this Chapter “fuel tank” means any tank or other container in or on a motor vehicle which is used or is capable of being used to supply fuel for combustion in the engine of the motor vehicle for the purposes of propulsion or of another motor vehicle which can provide traction for such purposes.
- (b) It shall be presumed, until the contrary is shown, that a fuel tank is capable of being used to supply fuel for the purposes of propulsion if there are any outlets from the fuel tank other than—
- (i) those which are permanently and solely connected to and for the sole supply of fuel for refrigeration, oxygenation, thermal insulation or other specialised systems in or on the motor vehicle, or
 - (ii) those which are solely for the purpose of discharging fuel from an oil road tanker to a vessel or tank separate from such oil tanker.

95.—(1) In addition to any other duty which may be chargeable and subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as mineral oil tax, shall, subject to *subsection (4)* be charged, levied and paid at the rates specified in *section 96* on all mineral oil—

- (a) produced in the State, or
- (b) imported into the State.

(2) For the purposes of charging mineral oil tax the volume of mineral oil shall be ascertained at a temperature of 15° Celsius and in the manner specified by the Commissioners.

(3) Notwithstanding that tax in respect of mineral oil chargeable with mineral oil tax imposed by *subsection (1)* may already have been paid, used mineral oil, which has been recycled to render it suitable for use as a propellant, shall be liable to tax under *subsection (1)*.

(4) Notwithstanding the generality of *subsection (1)*, only mineral oil coming within the definition of “mineral oil” in Article 2(1) of the Directive, substitute fuel and additives shall be subject to mineral oil tax. Pt.2 S.95

96.—(1) Mineral oil tax shall be charged at the rates specified in *Schedule 2*. Rates.

(2) The rate of tax at which additives shall be charged shall be the rate applicable to the mineral oil in which the additive is used or intended for use.

(3) The rate of tax on used mineral oil chargeable to tax under *section 95(3)* shall be the rate applicable to heavy oil used as a propellant.

(4) Where it is shown to the satisfaction of the Commissioners that any light oil is an oil which, according to its use, should be classed with heavy oil the oil shall be liable to tax at the rate appropriate to such heavy oil.

97.—(1) Where a mineral oil product is liable to mineral oil tax at a rate lower than the appropriate standard rate, such lower rate may, subject to *section 98* be applied by the Commissioners by means of remission or repayment of the difference between the standard rate and the lower rate concerned or, where the rate at which mineral oil tax was previously paid was lower than the standard rate, the difference between that rate and the lower rate at which the product is liable. Rates lower than standard rates.

(2) The standard rate in relation to light oils means the appropriate rate for petrol and in relation to any other mineral oil product means the rate for that product when it is used as a propellant.

(3) The application of a rate lower than the standard rate concerned may be subject to the Commissioners being satisfied as to the intended or actual use of the oil concerned and to such other conditions as they may impose and to compliance with such conditions.

98.—(1) Where a horticultural producer shows, to the satisfaction of the Commissioners that heavy oil or liquefied petroleum gas on which mineral oil tax has been paid was used by that producer either— Horticultural production.

(a) in the production of horticultural produce in one or more than one glasshouse of a total area of not less than a quarter of an acre, or

(b) in the cultivation of mushrooms in one or more than one building or structure of a total area of not less than 3,000 square feet,

the Commissioners shall, subject to compliance with such conditions as they may think fit to impose, repay to such producer the amount of mineral oil tax paid less an amount calculated at the rate of £4.40 per 1,000 litres on such oil or gas.

(2) Claims for repayment by virtue of *subsection (1)* shall be made in such form as the Commissioners may direct and shall be in respect of oil used within a period of one calendar month and no repayment

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may be made unless the claim is made within 3 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

Passenger road services.

99.—(1) Where a person, being a person who carries on a passenger road service within the meaning of section 2 of the Road Transport Act, 1932, and who either is the licensee under a passenger licence granted under section 11 of that Act in respect of the passenger road service or is exempted from the application of section 7 of that Act 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 passenger road service, the Commissioners shall, subject to compliance with such conditions as they may think fit to impose, 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) Claims for repayment by virtue of *subsection (1)* shall be made in such form as the Commissioners may direct and shall be in respect of oil used within a period of one calendar month and no repayment may be made unless the claim is made within 3 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

Reliefs from mineral oil tax for certain mineral oils.

100.—(1) Subject to it being shown to the satisfaction of the Commissioners that the condition or conditions in this section which are necessary for eligibility for relief from mineral oil tax and any other conditions imposed by the Commissioners have been complied with, a relief from mineral oil tax shall be granted on—

- (a) mineral oil used for purposes other than motor or heating fuel;
- (b) any mineral oil on which mineral oil tax was paid and which was subsequently allowed by the Commissioners to be put in a tax warehouse;
- (c) any mineral oil exported from the State to a place outside the European Union;
- (d) any mineral oil shipped for use as ships' stores;
- (e) fuel oil intended for use in, or in connection with, the manufacture of alumina, or for the maintenance of the manufacture in which the said manufacture is carried on;
- (f) mineral oil present, at the time of importation into the State, in the standard tank of a motor vehicle provided that, in the case of oil in a fuel tank, such oil was released in a Member State for use as a propellant;
- (g) mineral oil intended for use, or which has been used for injection into a blast furnace for the purposes of chemical reduction as an addition to the coke used as the principal fuel;
- (h) mineral oil which is intended for use or has been used as fuel for the purpose of sea navigation, including sea-fishing, other than in private pleasure craft;

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- (i) heavy oil intended for use or which has been used as fuel for the purpose of air navigation other than private pleasure flying; Pt.2 S.100
- (j) used mineral oil which is recycled and which is used or intended for purposes other than as a propellant;
- (k) mineral oil in respect of which the Minister thinks it proper to repay or remit mineral oil tax or part of that tax to the extent that the Minister thinks proper.

(2) Where mineral oil is eligible for relief from tax under the provisions of *subsection (1)* the relief may be granted by the Commissioners by means of remission or repayment of mineral oil tax.

(3) Claims for remission or repayment by virtue of *subsection (2)* shall be made in such form as the Commissioners may direct and shall be in respect of oil used within a period of one calendar month and no repayment may be made unless the claim is made within 3 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

101.—(1) There shall be charged, levied and paid on a licence granted by the Commissioners to be taken out annually by every person who produces, sells, delivers or deals in on any premises any mineral oil, other than additives, for use as a propellant which is chargeable with mineral oil tax, a duty of excise, in this Chapter referred to as the licence duty, in respect of each such premises. Licensing.

(2) Any licence or authorisation granted under paragraph 12(12) of the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975), section 42 of the Finance Act, 1976, section 45 of the Finance Act, 1989, or section 116 of the Finance Act, 1995, which is subsisting at the commencement of this provision shall be deemed to be a licence granted under this section until the date on which it is expressed to expire.

(3) The Commissioners may, on application to them in writing and on furnishing them with such information as they may reasonably require, grant to the person concerned a licence under this section.

(4) A licence shall not be granted under this section unless a tax clearance certificate in relation to that licence has been issued in accordance with section 1094 of the Taxes Consolidation Act, 1997.

(5) A licence granted under this section shall be subject to such conditions, if any, as the Commissioners may specify in the licence and any such conditions shall be complied with by the person concerned.

(6) A licence granted under this section may make different provisions for persons, premises or mineral oil of different classes or descriptions, for different circumstances and for different cases.

(7) The Commissioners may revoke any licence granted, or deemed to be granted, under this section if it appears to them that any condition specified in the licence has not been or is not being complied with.

(8) Licence duty shall be charged at the rate of £30 per year or part of a year.

102.—(1) It shall be an offence under this subsection for a person—

- (a) to contravene or fail to comply, whether by act or omission, with the provisions of this Chapter or any regulation made under *section 104* or any condition imposed under this Chapter or under such regulation,
- (b) to use as a propellant, to sell or deliver for such use or keep in a fuel tank—
 - (i) any mineral oil on which mineral oil tax at the appropriate standard rate has not been paid,
 - (ii) any mineral oil containing one or more markers prescribed by regulations under *section 104*, or
 - (iii) any substance where the importation of mineral oil containing such substance is prohibited by regulation made under *section 104*,
- (c) to purchase or receive mineral oil for use as a propellant from a person who is not the holder of a licence issued under *section 101*,
- (d) to produce or sell on, or to deliver from, any premises, or otherwise deal in, any mineral oil, other than additives, for use as a propellant which is chargeable with mineral oil tax unless such person holds a licence granted under *section 101* in respect of such mineral oil and in respect of such premises, or
- (e) being the holder of a licence granted under *section 101*, not to display such licence on the premises to which such licence relates.

(2) Without prejudice to any other penalty to which a person may be liable, where such person is guilty of an offence under *subsection (1)*, he or she shall be liable on summary conviction to a fine of £1,000.

(3) It shall be an offence under this subsection—

- (a) without the consent in writing of the Commissioners, to remove or attempt to remove or be knowingly concerned in removing or attempting to remove from any mineral oil—
 - (i) any prescribed marker, or
 - (ii) any substance where the importation of mineral oil containing such substance is prohibited by regulation made under *section 104*,
- (b) to knowingly deal in any mineral oil from which any such prescribed marker or substance referred to in *subsection (1)(b)(iii)* has been removed or to which any thing has been added for the purpose of impeding the identification in the said mineral oil of any such marker or such substance, or
- (c) to keep prohibited goods in any premises or on any land.

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(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—

- (a) on summary conviction to a fine of £1,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 12 months or to both, or
- (b) on a conviction on an indictment, to a fine of £10,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 5 years or to both.

(5) The mineral oil in respect of which an offence under *subsection (1)* or *(3)* was committed and any substance mixed with such oil shall be liable to forfeiture.

(6) In the case of—

- (a) an offence under *subsection (1)*, where—
 - (i) a concealed tank, other container or any device, contrivance or method of any kind, is employed to conceal the presence in the motor vehicle of mineral oil intended for use as a propellant, or
 - (ii) the owner or person in charge of the motor vehicle does not have a permanent address in the State, or
 - (iii) proof of payment of mineral oil tax at the rate appropriate for use of the mineral oil concerned in a fuel tank is not produced, following interrogation under the provisions of Chapter II of Part II of the Finance Act, 1995, and an officer has reasonable grounds to suspect that mineral oil tax has not been so paid,

or

- (b) a second or subsequent offence by a person under *subsection (1)*,

the vehicle shall be liable to forfeiture.

(7) Any prohibited goods in respect of which an offence is committed under *subsection (3)* and any mineral oil found at the place where and at the time at which such offence was committed, any conveyance or container or any other thing which was used for the carriage, storage or concealment of any such prohibited goods or mineral oil shall be liable to forfeiture.

(8) Section 13 (as amended by section 17 of the Criminal Justice Act, 1984) of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section.

(9) Where an offence under *subsection (3)* is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate or a member of the committee of management or other controlling authority of the body corporate that person shall also be deemed to be guilty of an offence and may be proceeded against and punished as if guilty of the first-mentioned offence.

Pt.2
Presumptions in
certain proceedings.

103.—(1) Where in any proceedings to recover a penalty under *section 102*—

- (a) the offence in respect of which the penalty is claimed consists of the use of mineral oil as a propellant or the keeping of mineral oil in a fuel tank in contravention of that section, and
- (b) it is proved that mineral oil was found in the fuel tank,

the mineral oil so found shall be presumed (unless or until the contrary is proved) to have been kept in the fuel tank in contravention of that section and to have been so kept in such contravention by—

- (i) either the owner of the vehicle or, if a person other than the owner was at the time at which it is alleged the offence was committed entitled to possession of the vehicle, the person so entitled, and
- (ii) if a person other than the owner or the person entitled as aforesaid was at the time at which it is alleged the offence was committed in charge of the vehicle, the person so in charge.

(2) In any proceedings against a person for selling, delivering, using or keeping for use as a propellant, mineral oil on which mineral oil tax has not been paid, or on which tax at a rate lower than the rate appropriate to its use as a propellant has been paid, it shall be presumed, until the contrary is proved, that mineral oil tax has not been paid or that mineral oil tax has been paid at such lower rate as the case may be.

(3) Whenever a person who is the owner or the occupier for the time being of premises or land in or on which prohibited goods are found is charged in any legal proceedings with contravening that section, the prohibited goods shall, until the contrary is proved, be presumed to have been kept by such person in the said premises, or on the said land (as the case may be), in contravention of that section.

Regulations.

104.—(1) The Commissioners may, for the purposes of managing, securing and collecting mineral oil tax or for the protection of the revenue derived from that tax, make regulations.

(2) In particular, but without prejudice to the generality of *subsection (1)*, regulations made under this section may—

- (a) govern the production, movement, importation, treatment, sale, delivery, warehousing, keeping, storage, removal to and from storage, exportation and use of mineral oil;
- (b) provide for securing, paying, collecting, remitting and repaying mineral oil tax;
- (c) regulate the issue of licences granted under *section 101*;
- (d) require a person who produces, imports, treats, sells, delivers, keeps, stores, deals in, exports or uses mineral oil to keep in a specified manner, and to preserve for a specified period, such accounts and records relating to such mineral oil as may be specified and any other books, documents, accounts or other records (including records

in a machine readable form) relating to the production, importation, treatment, purchase, receipt, sale, delivery, keeping, storage, removal to or from storage, disposal, exportation or use of mineral oil and to allow any officer to inspect and take copies of, or extracts from, such books, documents, accounts and other records (including, in the case of records in a machine readable form, copies in a readable form);

- (e) require any person mentioned in *paragraph (d)* to notify the proper officer of all places and premises and of all vessels, storage tanks and pipelines intended to be used by him or her in the carrying on of his or her business and provide for the method of such notification;
- (f) require any person mentioned in *paragraph (d)* to furnish, at such times and in such form as may be specified, such information and returns in relation to mineral oils as may be specified;
- (g) require a person who is an owner of or who is for the time being in charge of any motor vehicle constructed or adapted to use liquefied petroleum gas or substitute fuel as a propellant in that vehicle to give such information in relation to the supply or use of such mineral oil as may be specified;
- (h) require as a condition of allowing in respect of any mineral oil the application of a rate lower than the appropriate standard rate for the mineral oil concerned or any exemption or relief from mineral oil tax, subject to such exceptions as the Commissioners may allow, that there shall have been added to that mineral oil at such time and in such manner and in such proportions as may be prescribed, one or more prescribed markers and that a declaration to that effect is furnished;
- (i) specify the substances which are to constitute a prescribed marker for the purposes of *paragraph (h)* and specify the procedures for the approval of such markers;
- (j) prohibit the addition to any mineral oil of any prescribed marker except in such circumstances as may be prescribed;
- (k) prohibit the addition to or mixing with any mineral oil of any substance, not being a prescribed marker, including any substance which is calculated to impede the identification of a prescribed marker;
- (l) prohibit the importation, keeping for sale, transportation or delivery of any mineral oil to which has been added any substance, not being a prescribed marker, including any substance which is calculated to impede the identification of a prescribed marker;
- (m) prohibit the importation, sale or delivery of any mineral oil in which a prescribed marker is present unless it is present in the proportions prescribed and unless such mineral oil is intended for use for a purpose other than combustion in the engine of a motor vehicle and a declaration to that effect is furnished;

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- (n) require containers for the storage or transportation of mineral oil to be marked in such a manner as may be prescribed;
- (o) require that aviation gasoline shall be deposited in a tax warehouse prior to its delivery for home use;
- (p) prohibit the use of aviation gasoline otherwise than as a fuel for aircraft;
- (q) prohibit the taking of aviation gasoline into a fuel tank in or on a motor vehicle;
- (r) provide that aviation gasoline shall not be mixed with any other substance, save with the permission of the Commissioners.

(3) Regulations made under this section may make different provisions for persons, premises or products of different classes or descriptions, for different circumstances and for different cases.

General provisions.

105.—(1) (a) Subject to *paragraph (b)* and to *subsection (2)*, the provisions of the Customs Acts and of any instrument relating to duties of customs made under statute and not otherwise applied by this Chapter shall, with any necessary modifications, apply in relation to mineral oil tax imposed by *section 95* on mineral oil imported into the State as they apply in relation to duties of customs.

(b) Where, in relation to mineral oil tax, there is a provision in this Chapter corresponding to a provision of the Customs Acts or of any instrument relating to duties of customs made under statute, the latter provision shall not apply in relation to that tax.

(2) (a) Subject to *paragraph (b)*, the provisions of the statutes which relate to the duties of excise and the management thereof and of any instrument relating to the duties of excise made under statute and not otherwise applied by this Chapter shall, with any necessary modifications, apply in relation to mineral oil tax imposed by *section 95* on mineral oil produced in the State or exported to or imported from a Member State as they apply to duties of excise.

(b) Where, in relation to mineral oil tax, there is a provision in this Chapter corresponding to a provision of the statutes which relate to the duties of excise or of any instrument relating to the duties of excise made under statute, the latter provision shall not apply in relation to that tax.

(3) This Chapter, so far as it relates to mineral oil tax on imported goods imposed by *section 95*, shall be construed together with the Customs Acts and any instrument relating to the customs made under statute and, so far as it relates to the said tax on goods made in the State, or exported to or imported from a Member State shall be construed together with the statutes which relate to the duties of excise and the management of those duties and any instrument relating to the duties of excise and the management of those duties made under statute.

106.—(1) The enactments set out in *Part 1* and *Part 2* of *Schedule 3* (which enactments are in this Chapter referred to as “the repealed enactments”) are hereby repealed in the case of those set out in the said *Part 1*, and revoked in the case of those set out in the said *Part 2*, to the extent mentioned in the third column of those Parts opposite the reference to the enactment concerned.

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Repeals and
revocations.

(2) If, and in so far as a provision of this Chapter operates, as from the day appointed under *section 109*, in substitution for a provision of the repealed enactments, any order or regulation made or having effect as if made, and any thing done or having effect as if done, under the substituted provision before that day shall be treated as from that day as if it were an order or regulation made or a thing done under such provision of this Chapter.

107.—(1) The provisions of this Chapter shall apply subject to so much of any Act which contains provisions relating to or affecting excise duties as—

Continuity.

(a) is not repealed by this Chapter, and

(b) would have operated in relation to these duties if this Chapter had not been substituted for the repealed enactments.

(2) The Commissioners shall have all the jurisdictions, powers and duties in relation to mineral oil tax which they had in relation to the corresponding excise duties.

(3) The continuity of the operation of the law relating to excise duties on mineral oils shall not be affected by the substitution of this Chapter for the repealed enactments.

(4) Any reference, whether express or implied, in any enactment or document (including this Chapter)—

(a) to any provision of this Chapter, or

(b) to things done or to be done under or for the purposes of any provision of this Chapter,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision.

(5) Any reference, whether express or implied, in any enactment or document (including the repealed enactments and enactments passed and documents made)—

(a) to any provision of the repealed enactments, or

(b) to things done or to be done under or for the purposes of any provision of the repealed enactments,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Chapter applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

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(6) All officers who stood authorised or nominated for the purposes of any provision of the repealed enactments shall be deemed to be authorised or nominated, as the case may be, for the purposes of the corresponding provision of this Chapter.

(7) All instruments, documents, authorisations and letters or notices of appointment made or issued under the repealed enactments and in force immediately before the commencement of this provision shall continue in force as if made or issued under this Chapter.

Care and management of mineral oil tax.

108.—Mineral oil tax imposed by *section 95* is hereby placed under the care and management of the Commissioners.

Commencement (*Chapter 1*).

109.—This Chapter shall come into operation on such day as the Minister may appoint by order, and different days may be so appointed for different provisions or for different purposes.

Chapter 2

Miscellaneous

Hydrocarbons.

110.—The duty of excise on gaseous hydrocarbons in liquid form imposed by section 41(1) of the Finance Act, 1976, shall be charged, levied and paid, as on and from the 3rd day of December, 1998, at the rate of £41.75 per 1,000 litres in lieu of the rate specified in section 69(3) of the Finance Act, 1993.

Tobacco products.

111.—(1) In this section and in *Schedule 4*—

“the Act of 1977” means the Finance (Excise Duty on Tobacco Products) Act, 1977;

“cigarettes”, “cigars”, “fine-cut tobacco for the rolling of cigarettes” 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 7 to the Finance Act, 1998, be charged, levied and paid, as on and from the 3rd day of December, 1998, at the several rates specified in *Schedule 4*.

Amendment of section 104 (excisable products) of Finance Act, 1992.

112.—(1) Chapter II of Part II of the Finance Act, 1992, is hereby amended by the substitution of the following section for section 104:

“104.—For the purposes of this Chapter the following shall be excisable products:

- (a) spirits chargeable with the duty of excise imposed by paragraph 4(2) of the Order of 1975,
- (b) wine chargeable with the duty of excise imposed by paragraph 5(2) of the Order of 1975,
- (c) made wine chargeable with the duty of excise imposed by paragraph 6(2) of the Order of 1975,

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- (d) beer chargeable with the duty of excise imposed by Pt.2 S.112 section 90,
- (e) cider and perry chargeable with the duty of excise imposed by paragraph 8(2) of the Order of 1975,
- (f) tobacco products chargeable with the duty of excise imposed by section 2 of the Finance (Excise Duty on Tobacco Products) Act, 1977, and
- (g) mineral oil chargeable with the duty of excise imposed by *section 95* of the *Finance Act, 1999*, and which are products—
- (i) specified in paragraph (1) of Article 2a of Council Directive No. 92/81/EEC of 19 October 1992¹, or
- (ii) which have been the subject, under paragraph (2) of the said Article 2a, of a decision to make such products subject to the control and movement provisions of the Directive.”.

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

113.—(1) Chapter II of Part II of the Finance Act, 1995, is hereby amended—

Amendment of Chapter II (Powers of Officers) of Part II of Finance Act, 1995.

- (a) in section 85, by the insertion of the following definitions after the definition of “excisable products”:

“‘fuel tank’ has the meaning assigned to it by *section 94* of the *Finance Act, 1999*;

‘mineral oil’ has the meaning assigned to it by *section 94* of the *Finance Act, 1999*,”

- (b) in section 86—

(i) in paragraph (b) of subsection (1) by the substitution for “of any fuel” of “, under section 86A, of any mineral oil”,

(ii) in paragraph (a) of subsection (4) by the substitution for “any fuel” of “any mineral oil”,

- (c) by the insertion of the following section after section 86:

“Power to take samples and to question in relation to mineral oil in vehicles.

86A.—(1) An officer, on production of the authorisation of the officer if so requested by any person affected, or a member of the Garda Síochána may—

- (a) examine and take such samples of any mineral oil in any fuel tank or otherwise present on or in any vehicle, or anything

¹ O.J. No. L316 of 31 October, 1992, p.12

attached to any vehicle, for use or capable of being used for combustion in the engine of the vehicle, whether or not the vehicle is attended,

(b) examine or inspect any vehicle or anything attached to any vehicle for the purposes of paragraph (a),

(c) require—

(i) the owner of any vehicle,

(ii) any person who for the time being stands registered as the owner of any vehicle in the register established under section 131 of the Finance Act, 1992, or the Roads Act, 1920,

(iii) any director, manager or principal officer of such owner where the registered owner is not one or more individuals, or

(iv) the person in charge of any vehicle,

to furnish to such officer or member—

(I) evidence of payment of tax imposed by section 95 of the *Finance Act, 1999*, at the rate applicable for use in a fuel tank, on any such mineral oil,

(II) any other information in relation to such mineral oil as may reasonably be required and which is in the possession or procurement of the person,

(d) enter and inspect any premises or other place (other than a dwelling) at any reasonable time for the purposes of this section and bring onto those premises any vehicle being

used in the course of his or her duties, Pt.2 S.113

- (e) make such search and investigation of such premises or place as he or she may think proper.

(2) Any person who resists, obstructs or impedes an officer or a member of the Garda Síochána in the exercise of any power conferred on the officer or member by this section, or who fails or refuses to furnish any information required under subsection (1), or who gives any such information which is false or misleading shall be guilty of an offence and shall be liable on summary conviction to a fine of £1,000.”,

and

- (d) by the insertion of the following section after section 87A:

“Power of arrest for certain mineral oil offences.

87B.—An officer or a member of the Garda Síochána may arrest without warrant a person whom he or she has reasonable grounds to suspect is committing or has committed an offence under *section 102(3)* of the *Finance Act, 1999*.”.

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

114.—Section 105 of the Finance Act, 1995, is hereby amended by the substitution of the following subsection for subsection (3):

Amendment of section 105 (appeals to the Appeal Commissioners) of Finance Act, 1995.

“(3) Subject to the provisions of this section, the provisions of—

- (a) Part 40, other than sections 942, 943 and (in so far as it relates to those sections) 944 of the Taxes Consolidation Act, 1997, and

- (b) section 957 of that Act,

shall, with any necessary modifications, apply as they apply for the purpose of income tax.”.

115.—Section 130 of the Finance Act, 1992, is hereby amended by the substitution of the following definition for the definition of “ambulance”:

Amendment of section 130 (interpretation) of Finance Act, 1992.

“ ‘ambulance’ means a vehicle which is specially designed, constructed or adapted, and is primarily used following registration, for the conveyance of injured or seriously ill persons to a hospital on a stretcher and which is permanently fitted to accommodate and hold in position one or more standard stretchers;”.

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Amendment of section 132 (charge of excise duty) of Finance Act, 1992.

116.—As respects vehicle registration tax charged, levied and paid as on and from the 1st day of January, 1999, section 132 of the Finance Act, 1992, is hereby amended, in subsection (3), by the substitution of the following paragraphs for paragraph (a) (inserted by the Finance (No. 2) Act, 1992):

“(a) in case the vehicle the subject of the registration or declaration concerned is a category A vehicle which has an engine of a cylinder capacity exceeding 2,000 cubic centimetres, at the rate of an amount equal to 30 per cent. of the value of the vehicle or £250, whichever is the greater,

(aa) in case the vehicle the subject of the registration or declaration concerned is a category A vehicle which has an engine of a cylinder capacity exceeding 1,400 cubic centimetres but not exceeding 2,000 cubic centimetres, at the rate of an amount equal to 25 per cent. of the value of the vehicle or £250, whichever is the greater.”.

Bets, reduction in rate of excise duty.

117.—(1) The duty on bets imposed by section 24 of the Finance Act, 1926, shall (subject to section 20 of the Finance Act, 1931) be charged, levied and paid on bets entered into, at the rate of five per cent. of the amount of the bet in lieu of the rate of ten per cent. mentioned in section 31 of the Finance Act, 1985.

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

Increase in penalties for betting offences.

118.—(1) The Finance Act, 1926, is hereby amended—

(a) in section 24, by the substitution in subsection (4) (as substituted by section 69(1)(a) of the Finance Act, 1982) of “£1,500” for “£800”, and

(b) in section 25, by the substitution in subsection (2) (as substituted by section 69(1)(b) of the Finance Act, 1982) of “£1,500” for “£800”.

(2) Section 2 of the Betting Act, 1931, is hereby amended by the substitution in subsection (2) (as substituted by section 69(2) of the Finance Act, 1982) of “£1,500” for “£800”.

(3) Section 76 of the Finance Act, 1984, is hereby amended by the substitution in subsection (8)(b) of “£1,500” for “£1,000”.

(4) Section 42 of the Finance Act, 1989, is hereby amended by the substitution in subsection (3) of “£1,500” for “£1,000”.

PART 3

Value-Added Tax

Interpretation (*Part 3*).

119.—In this Part—

“the Principal Act” means the Value-Added Tax Act, 1972;

“the Act of 1978” means the Value-Added Tax (Amendment) Act, 1978;

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“the Act of 1992” means the Finance Act, 1992;

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“the Act of 1995” means the Finance Act, 1995;

“the Act of 1997” means the Finance Act, 1997;

“the Act of 1998” means the Finance Act, 1998.

120.—Section 3 of the Principal Act is hereby amended—

Amendment of
section 3 (supply of
goods) of Principal
Act.

(a) in paragraph (g) (inserted by the Act of 1992) of subsection (1) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the transfer of goods to another person under the circumstances specified in paragraph (i) of the Second Schedule and the transfer of the goods referred to in paragraphs (v), (va), (vb) and (x) of the Second Schedule.”,

(b) in subsection (5) by the insertion of the following paragraph after paragraph (b):

“(c) Where a person, in this subsection referred to as an ‘owner’—

(i) supplies financial services of the kind specified in subparagraph (i)(e) of the First Schedule in respect of a supply of goods within the meaning of paragraph (b) of subsection (1), being goods which are of such a kind or were used in such circumstances that no part of the tax, if any, chargeable on that supply of those goods was deductible by the person to whom that supply was made, and

(ii) enforces such owner’s right to recover possession of those goods,

then the disposal of those goods by such owner shall be deemed for the purposes of this Act not to be a supply of goods.”,

and

(c) in paragraph (A) of the proviso (inserted by the European Communities (Value-Added Tax) Regulations, 1992 (S.I. No. 413 of 1992)) to paragraph (d) of subsection (6) by the substitution of “£27,565” for “£27,000”.

121.—Section 5 of the Principal Act is hereby amended by the insertion of the following paragraph after paragraph (ddd) (inserted by the Act of 1998) in subsection (6):

Amendment of
section 5 (supply of
services) of
Principal Act.

“(dddd) Notwithstanding the provisions of subsection (5), the place of supply of services consisting of the hiring out of means of transport by a person established in the State shall be deemed to be outside the Community where such means of transport are, or are to be, effectively used and enjoyed outside the Community.”.

122.—The Principal Act is hereby amended by the insertion of the following section after section 6:

“6A.—(1) (a) In this section—

‘intermediary’ means a person who intervenes for another person in a supply of investment gold while acting in the name and for the account of that other person;

‘investment gold’ means—

(i) gold in the form of—

(I) a bar, or

(II) a wafer,

of a weight accepted by a bullion market and of a purity equal to or greater than 995 parts per one thousand parts, and

(ii) gold coins which—

(I) are of a purity equal to or greater than 900 parts per one thousand parts,

(II) are minted after 1800,

(III) are or have been legal tender in their country of origin, and

(IV) are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80 per cent.

(b) For the purposes of the definition of investment gold in paragraph (a), gold coins which are listed in the ‘C’ series of the Official Journal of the European Communities as fulfilling the criteria referred to in that definition in respect of gold coins shall be deemed to fulfil the said criteria for the whole year for which the list is published.

(2) The provisions of this section shall apply to—

(a) investment gold which is represented by securities or represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or a claim in respect of investment gold, and

(b) transactions concerning investment gold involving futures and forward contracts leading to a transfer of a right of ownership or a claim in respect of investment gold.

(3) Notwithstanding subsection (1) of section 6, a person who produces investment gold or transforms any gold into investment gold, may, in accordance with conditions set out in regulations, waive such person's right to exemption from tax on a supply of investment gold to another person who is engaged in the supply of goods and services in the course or furtherance of business.

(4) Where a person waives, in accordance with subsection (3), such person's right to exemption from tax in respect of a supply of investment gold, an intermediary who supplies services in respect of that supply of investment gold may, in accordance with conditions set out in regulations, waive that intermediary's right to exemption from tax in respect of those services.

(5) (a) Where a person waives, in accordance with subsection (3), such person's right to exemption from tax in respect of a supply of investment gold, then, for the purposes of this Act, the person to whom the supply of investment gold is made shall, in relation thereto, be a taxable person and be liable to pay the tax chargeable on that supply as if such taxable person had made that supply of investment gold for consideration in the course or furtherance of business and the person who waived the right to exemption in respect of that supply shall not be liable to pay the said tax.

(b) Where a person is liable for tax in accordance with paragraph (a) in respect of a supply of investment gold, such person shall, notwithstanding the provisions of section 12, be entitled, in computing the amount of tax payable by such person in respect of the taxable period in which that liability to tax arises, to deduct the tax for which such person is liable on that supply, if such person's subsequent supply of that investment gold is exempt from tax.

(6) (a) A taxable person may, in computing the amount of tax payable by such person in respect of any taxable period and notwithstanding section 12, deduct—

- (i) the tax charged to such person during that period by other taxable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of gold to such person,
- (ii) the tax chargeable during that period, being tax for which such person is liable in respect of intra-Community acquisitions of gold, and
- (iii) the tax paid by such person, or deferred, as established from the relevant customs documents kept by such person in accordance with section 16(3) in respect of gold imported by such person in that period,

where that gold is subsequently transformed into investment gold and such person's subsequent supply of that investment gold is exempt from tax.

(b) A person may claim, in accordance with regulations, a refund of—

(i) the tax charged to such person on the purchase of gold, other than investment gold, by such person,

(ii) the tax chargeable to such person on the intra-Community acquisition of gold, other than investment gold, by such person, and

(iii) the tax paid or deferred on the importation by such person of gold other than investment gold,

where that gold is subsequently transformed into investment gold and such person's subsequent supply of that investment gold is exempt from tax.

(7) (a) A taxable person may, in computing the amount of tax payable by such person in respect of a taxable period and notwithstanding section 12, deduct the tax charged to such person during that period by other taxable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of the supply to the first-mentioned person of services consisting of a change of form, weight or purity of gold where that person's subsequent supply of that gold is exempt from tax.

(b) A person may claim, in accordance with regulations, a refund of the tax charged to such person in respect of the supply to such person of services consisting of a change of form, weight or purity of gold where such person's subsequent supply of that gold is exempt from tax.

(8) (a) A taxable person who produces investment gold or transforms any gold into investment gold may, in computing the amount of tax payable by such person in respect of a taxable period and notwithstanding section 12, deduct—

(i) the tax charged to such person during that period by other taxable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of goods or services to the first-mentioned person,

(ii) the tax chargeable during that period, being tax for which such person is liable in respect of intra-Community acquisitions of goods, and

(iii) the tax paid by such person, or deferred, as established from the relevant customs documents kept by such person in accordance with section 16(3) in respect of goods imported by such person in that period,

where those goods or services are linked to the production or transformation of that gold, and such person's subsequent supply of that investment gold is exempt from tax.

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(b) A person who produces investment gold or transforms any gold into investment gold may claim, in accordance with regulations, a refund of—

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- (i) the tax charged to such person on the purchase by such person of goods or services,
- (ii) the tax chargeable to such person on the intra-Community acquisition of goods by such person, and
- (iii) the tax paid or deferred by such person on the importation of goods by such person,

where those goods or services are linked to the production or transformation of that gold, and such person's subsequent supply of that gold is exempt from tax."

123.—Section 8 of the Principal Act is hereby amended in subparagraph (ia) of paragraph (a) of subsection (3) by the substitution for "livestock", in each place where it occurs, of "bovine".

Amendment of section 8 (taxable persons) of Principal Act.

124.—Section 10 of the Principal Act is hereby amended in subsection (4B) (inserted by the Act of 1992) by the substitution for "open market price" of "cost of the goods to the person making the supply or, in the absence of such a cost, the cost price of similar goods in the State, and where an intra-Community acquisition occurs in the State following a supply of goods in another Member State which, if such supply was carried out in similar circumstances in the State would be a supply of goods in accordance with section 3(1)(g), then the amount on which tax is chargeable in respect of that intra-Community acquisition shall be the cost to the person making the supply in that Member State or, in the absence of a cost to that person, the cost price of similar goods in that other Member State".

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

125.—Section 10A (inserted by the Act of 1995) of the Principal Act is hereby amended in subsection (1)—

Amendment of section 10A (margin scheme goods) of Principal Act.

(a) by the substitution of the following definition for the definition of "margin scheme goods":

" 'margin scheme goods' means any works of art, collectors' items, antiques or second-hand goods supplied within the Community to a taxable dealer—

(a) by a person, other than a person referred to in paragraph (c), who was not entitled to deduct, under section 12, any tax in respect of that person's purchase, intra-Community acquisition or importation of those goods:

Provided that person is not a taxable person who acquired those goods from—

(i) a taxable dealer who applied the margin scheme to the supply of those goods to that taxable person, or

- (ii) an auctioneer within the meaning of section 10B who applied the auction scheme within the meaning of section 10B to the supply of those goods to that taxable person,

or

- (b) by a person in another Member State who was not entitled to deduct, under the provisions implementing Article 17 of Council Directive No. 77/388/EEC of 17 May 1977, in that Member State, any value-added tax referred to in that Directive in respect of that person's purchase, intra-Community acquisition or importation of those goods, or
- (c) by another taxable dealer who has applied the margin scheme to the supply of those goods or applied the provisions implementing Article 26a (inserted by Council Directive No. 94/5/EC of 14 February 1994) of Council Directive No. 77/388/EEC of 17 May 1977, in another Member State to the supply of those goods,

and also includes goods acquired by a taxable dealer as a result of a disposal of goods by a person to such taxable dealer where that disposal was deemed not to be a supply of goods in accordance with section 3(5)(c).”,

and

- (b) in the definition of “second-hand goods” by the insertion after “means of transport,” of “agricultural machinery (within the meaning of section 12C),”.

Amendment of section 10B (special scheme for auctioneers) of Principal Act.

126.—Section 10B (inserted by the Act of 1995) of the Principal Act is hereby amended in subsection (1) by the insertion in the definition of “auction scheme goods” of the following paragraph after paragraph (a):

“(aa) an owner within the meaning of section 3(5)(c) who enforced such owner's right to recover possession of those goods under the circumstances set out in section 3(5)(c), or”.

Amendment of section 11 (rates of tax) of Principal Act.

127.—Section 11 of the Principal Act is hereby amended in subsection (1) (inserted by the Act of 1992) by the substitution in paragraph (f) of “4 per cent” for “3.6 per cent” (inserted by the Act of 1998).

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

128.—Section 12 of the Principal Act is hereby amended by the insertion in paragraph (a) of subsection (1) of—

- (a) the following subparagraph after subparagraph (iiid) (inserted by the Act of 1997):

“(iiie) the tax chargeable during the period, being tax for which he is liable by virtue of section

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6A(5)(a) in respect of investment gold (within the meaning of section 6A) received by him," Pt.3 S.128

and

(b) the following subparagraph after subparagraph (vi) (inserted by the Act of 1995):

“(via) the residual tax referred to in section 12C, being residual tax contained in the price charged to him for the purchase of agricultural machinery (within the meaning of section 12C), by means of invoices issued to him during the period by flat-rate farmers,”.

129.—Section 12A (inserted by the Act of 1978) of the Principal Act is hereby amended in subsection (1) by the substitution of “4 per cent” for “3.6 per cent” (inserted by the Act of 1998).

Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.

130.—Section 12B (inserted by the Act of 1995) of the Principal Act is hereby amended—

Amendment of section 12B (special scheme for means of transport supplied by taxable dealers) of Principal Act.

(a) in subsection (2)—

(i) by the insertion of “(other than in the circumstances where an owner as referred to in paragraph (c) of subsection (5) of section 3, enforces such owner’s right to recover possession of a means of transport)” after “purchases or acquires”, and

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

“(aa) a means of transport from a person where the disposal of that means of transport by such person to such taxable dealer was deemed not to be a supply of goods in accordance with section 3(5)(c), or”,

and

(b) in subsection (3) in the definition of “means of transport” by the insertion after “other than” of “agricultural machinery (within the meaning of section 12C), and”.

131.—The Principal Act is hereby amended by the insertion of the following section after section 12B (inserted by the Act of 1995):

Special scheme for agricultural machinery.

“12C.—(1) A taxable dealer who purchases agricultural machinery from a flat-rate farmer shall, subject to the provisions of this section and in accordance with subparagraph (via) of paragraph (a) of subsection (1) of section 12, be entitled to deduct the residual tax contained in the price payable by such taxable dealer in respect of that purchase.

(2) A flat-rate farmer who supplies agricultural machinery to a taxable dealer shall, subject to section 17(2A), issue an invoice in respect of that supply.

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(3) The residual tax referred to in subsection (1) shall be determined by the formula—

$$A \times \frac{B}{B + 100}$$

where—

A is the purchase price of the agricultural machinery payable by the taxable dealer, and

B is the percentage rate of tax specified in section 11(1)(a).

(4) Where a taxable dealer supplies agricultural machinery in respect of which such dealer was entitled to deduct residual tax and where the tax chargeable in respect of that supply is less than the residual tax deducted by that dealer in respect of the purchase of that machinery, then the excess of the residual tax over the tax payable on that supply shall be deemed to be tax chargeable in respect of that supply.

(5) In this section—

‘agricultural machinery’ means machinery or equipment, other than a motor vehicle as defined in subsection (3) of section 12, which has been used by a flat-rate farmer for the purpose of such farmer’s Annex A activity in circumstances where any tax charged on the supply of that machinery or equipment to that farmer would have been deductible by such farmer if such farmer had elected to be a taxable person at the time of that supply of the machinery or equipment to such farmer;

‘taxable dealer’ means a taxable person who in the course or furtherance of business, whether acting on that person’s own behalf, or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale, purchases agricultural machinery as stock-in-trade with a view to resale.”.

Amendment of section 13 (remission of tax on goods exported, etc.) of Principal Act.

132.—Section 13 of the Principal Act is hereby amended in paragraph (iii) of subsection (1A) (inserted by the Act of 1997) by the insertion after “the supply,” of “and where an amount so notified is expressed in terms of a percentage or a fraction, such percentage or fraction shall relate to the tax remitted or repayable under this subsection,”.

Amendment of section 16 (duty to keep records) of Principal Act.

133.—Section 16 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (1):

“(1A) Every person who trades in investment gold (within the meaning of section 6A) shall, in accordance with regulations, keep full and true records of that person’s transactions in investment gold.”.

Amendment of section 17 (invoices) of Principal Act.

134.—Section 17 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (2) (inserted by the Act of 1978):

“(2A) A flat-rate farmer who, in accordance with section 12C, is required to issue an invoice in respect of a supply of

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agricultural machinery shall, in respect of each supply, issue an invoice in the form and containing such particulars as may be specified by regulations if the following conditions are fulfilled: Pt.3 S.134

- (a) the issue of the invoice is requested by the taxable dealer,
- (b) the taxable dealer provides the form for the purpose of the invoice and enters the appropriate particulars thereon, and
- (c) the taxable dealer gives to the flat-rate farmer a copy of the invoice,

but may issue the invoice if those conditions or any one of them are not fulfilled.”.

135.—Section 19 of the Principal Act is hereby amended in clause (I) of subparagraph (i) of paragraph (a) of subsection (4) (inserted by the Finance Act, 1993) by the insertion after “registration of the vehicle” of “or, if section 131 of the Finance Act, 1992, does not provide for registration of the vehicle, at a time not later than the time when the tax is due in accordance with subsection (1A)”.

Amendment of section 19 (tax due and payable) of Principal Act.

136.—The Principal Act is hereby amended by the insertion of the following section after section 22:

Generation of estimates and assessments by electronic, photographic or other process.

“22A.—For the purposes of this Act and regulations, where an officer of the Revenue Commissioners nominated in accordance with regulations for the purposes of section 22 or an inspector of taxes or an officer of the Revenue Commissioners authorised for the purposes of section 23, or any other officer of the Revenue Commissioners acting with the knowledge of such nominated officer or such inspector or such authorised officer causes to issue, manually or by any electronic, photographic or other process, a notice of estimation or assessment of tax bearing the name of such nominated officer or such inspector or such authorised officer, that estimate or assessment to which the notice of estimation or assessment of tax relates shall be deemed—

- (a) in the case of an estimate made under section 22, to have been made by such nominated officer, and
- (b) in the case of an assessment made under section 23, to have been made by such inspector or such authorised officer, as the case may be, to the best of such inspector’s or such authorised officer’s opinion.”.

137.—Section 32 of the Principal Act is hereby amended in subsection (1) by the insertion of the following subparagraphs after subparagraph (h):

Amendment of section 32 (regulations) of Principal Act.

- “(ha) the keeping by persons trading in investment gold (within the meaning of section 6A) of records and the retention of such records and supporting documents or other recorded data;

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- (hb) the conditions under which a person may waive his right to exemption from tax on the supply of investment gold (within the meaning of section 6A);
- (hc) the conditions under which an intermediary (within the meaning of section 6A) may waive his right to exemption from tax on his supply of services;
- (hd) the conditions under which a person may claim a refund of tax in accordance with subsections (6)(b), (7)(b) and (8)(b) of section 6A, and the manner in which such refund may be claimed;”.

Amendment of
First Schedule to
Principal Act.

138.—The First Schedule (inserted by the Act of 1978) to the Principal Act is hereby amended—

- (a) by the insertion in subparagraph (g) (inserted by the Finance Act, 1991) of paragraph (i) of the following clause after clause (I):

“(Ia) a special investment scheme within the meaning of section 737 of the Taxes Consolidation Act, 1997, or”,

and

- (b) by the insertion of the following paragraphs after paragraph (xviii):

“(xviii a) supply, intra-Community acquisition and importation of investment gold (within the meaning of section 6A) other than supplies of investment gold to the Central Bank of Ireland;

(xviii b) supply of services of an intermediary (as defined in section 6A) acting in that capacity;”.

Amendment of
Second Schedule to
Principal Act.

139.—The Second Schedule (inserted by the Finance Act, 1976) to the Principal Act is hereby amended in paragraph (i) by the insertion of the following subparagraph after subparagraph (a):

“(aa) subject to a condition that they are to be dispatched or transported directly outside the Community by or on behalf of the purchaser of the goods where that purchaser is established outside the State,”.

PART 4

Stamp Duties

Chapter 1

General Provisions

Provision relating to
First Schedule to
Stamp Act, 1891.

- 140.**—(1) (a) For the avoidance of doubt it is hereby declared that 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 the First Schedule to the

Stamp Act, 1891, shall be deemed always to have had effect (prior to the substitution made by section 7(a) of the Finance (No. 2) Act, 1998, but subsequent to the substitution made by section 117(a) of the Finance Act, 1997) as if the following paragraph were substituted for the paragraph (8) which was inserted by section 117(a) of the Finance Act, 1997:

“(8) Of any other kind whatsoever not hereinbefore described by reference to a consideration for which a rate of duty has already been specified at paragraphs (1) to (7):

for every £100, or fractional part of £100, of the consideration ... £9.00”.

(b) For the avoidance of doubt it is hereby declared that the Heading “LEASE” in the First Schedule to the Stamp Act, 1891, shall be deemed always to have had effect (prior to the substitution made by section 7(b) of the Finance (No. 2) Act, 1998, but subsequent to the substitution made by section 117(b) of the Finance Act, 1997) as if the following clause were substituted for the clause (viii) of subparagraph (a) of paragraph (3) which was inserted by section 117(b) of the Finance Act, 1997:

“(viii) the case is of any other kind whatsoever not hereinbefore described by reference to a consideration for which a rate of duty has already been specified at clauses (i) to (vii):

for every £100, or fractional part of £100, of the consideration £9.00”.

(2) Subsection (1) shall not apply to an instrument in relation to which either of the Headings referred to at paragraph (a) or paragraph (b) of subsection (1) was the subject matter of an appeal under section 13 of the Stamp Act, 1891, being an appeal made before the 2nd day of March, 1999.

141.—(1) The Finance Act, 1990, is hereby amended by the substitution of the following section for section 114:

Amendment of section 114 (exemption from stamp duty of transfers by spouses) of Finance Act, 1990.

“114.—(1) Subject to subsection (2), stamp duty shall not be chargeable on any instrument, other than a conveyance or transfer referred to in subsection (4), (5), (6) or (7) of section 58 of the Stamp Act, 1891, or subsection (1)(b) of section 106 of the Finance Act, 1996, whereby any property is transferred by a spouse or spouses of a marriage to either spouse or to both spouses of that marriage.

(2) Subsection (1) shall not apply to an instrument whereby any property or any part of, or beneficial interest in, any property is transferred to a person other than a spouse referred to in that subsection.

(3) Section 74(2) of the Finance (1909-10) Act, 1910, shall not apply to an instrument to which subsection (1) applies.”.

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(2) Section 212 of the Finance Act, 1992, is hereby repealed.

(3) This section shall have effect in relation to instruments executed on or after the 2nd day of March, 1999.

Amendment of section 207 (exemption from stamp duty of certain financial services instruments) of Finance Act, 1992.

142.—(1) Section 207 of the Finance Act, 1992, is hereby amended in subsection (1)—

(a) by the substitution of “is dealt in” for “is dealt in and quoted” in subparagraph (I) of paragraph (b) of the definition of “American depositary receipt”,

(b) by the substitution of “so dealt in” for “so dealt in and quoted” in subparagraph (II) of paragraph (b) of the definition of “American depositary receipt”, and

(c) by the substitution of “dealt in” for “dealt in and quoted” in the definition of “financial futures agreement”.

(2) This section shall apply and have effect as respects instruments executed on or after the date of the passing of this Act.

Amendment of section 106 (exemption from stamp duty of certain loan capital and securities) of Finance Act, 1993.

143.—Section 106 of the Finance Act, 1993, is hereby amended in subsection (3) (as amended by the Finance Act, 1994) by the substitution of the following paragraph for paragraph (b):

“(b) any other loan capital:

Provided that where the instrument is chargeable to stamp duty under the Heading ‘MORTGAGE, BOND, DEBENTURE, COVENANT (except a marketable security) which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas’ in the First Schedule to the Stamp Act, 1891, the instrument shall be chargeable with that duty.”.

Amendment of section 150 (stock borrowing) of Finance Act, 1995.

144.—(1) Section 150 of the Finance Act, 1995, is hereby amended in subsection (1) by the substitution, in the definition of “stock”, of “dealt in” for “quoted”.

(2) This section shall apply to stock borrowing transactions entered into on or after the date of the passing of this Act.

Amendment of section 121 (surcharges) of Finance Act, 1997.

145.—Section 121 of the Finance Act, 1997, is hereby amended—

(a) in subsection (3) by the substitution of “Where the vendee’s estimate (in this subsection referred to as the ‘submitted value’) is less than or greater than the residential value agreed with, or ascertained by, the Commissioners, subject to the right of appeal under section 13 (as amended by the *Finance Act, 1999*) of the Stamp Act, 1891, (in this subsection referred to as the ‘ascertained value’) then, as a penalty, the duty chargeable upon the instrument shall, where an assessment of duty based on the ascertained value would result in a greater amount than an assessment based on the submitted value, be increased by an

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amount (in this subsection referred to as the ‘surcharge’) Pt.4 S.145
calculated according to the following provisions:” for so
much of that subsection as occurs before paragraph (a),

(b) in paragraph (a) and in paragraph (b) of subsection (3) by
the substitution of “is less than or greater than” for “is
less than”,

(c) in paragraph (ii) of the proviso to subsection (3) by the sub-
stitution of “is less than or greater than” for “is greater
than”, and

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

“(4) Any surcharge payable by operation of this
section shall be chargeable and recoverable in the
same manner as if it were part of the duty on the
instrument to which it relates.”.

146.—Section 6 of the Finance (No. 2) Act, 1998, is hereby
amended in subsection (2) by the substitution of “1st day of April,
1999” for “1st day of January, 1999”.

Amendment of
section 6
(commencement
(Part 2)) of Finance
(No. 2) Act, 1998.

Chapter 2

Pre-consolidation measures

147.—In this Chapter—

Interpretation
(Chapter 2).

“the Act of 1891” means the Stamp Act, 1891;

“the Management Act of 1891” means the Stamp Duties Manage-
ment Act, 1891.

148.—(1) *Section 149(b), sections 150 to 161, sections 162(b),* Application
163(b), 164(b), 165, 166 and 167(b), paragraphs (a)(i), (b) and (c) of (Chapter 2).
section 168 and sections 169 to 172 shall apply and have effect as
respects an act or omission which occurs on or after the date of the
passing of this Act.

(2) *Sections 162(a) and 163(a), paragraphs (a) and (c) of section*
164, section 167(a), sections 175 to 181, sections 182(b), 183(a) and
184, sections 186 to 193 and section 196 shall apply and have effect
as respects instruments executed on or after the date of the passing
of this Act.

(3) *Section 149(a) shall apply and have effect as respects licences*
granted on or after the date of the passing of this Act.

(4) *Section 168(a)(ii) shall apply and have effect as respects a dis-*
posal occurring on or after the date of the passing of this Act.

(5) *Section 173 shall apply and have effect as respects an appeal*
against an assessment being an assessment made on or after the date
of the passing of this Act.

(6) *Section 174 shall apply and have effect as respects an appeal*
against a decision being a decision made on or after the passing of
this Act.

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(7) *Sections 182(a) and 183(b)* shall apply and have effect as respects exemptions which cease to apply on or after the date of the passing of this Act.

(8) *Section 185* shall apply and have effect as respects applications for allowance made on or after the date of the passing of this Act.

(9) *Section 194* shall apply and have effect—

(a) in *paragraph (a)*, as respects statements delivered on or after the date of the passing of this Act,

(b) in *paragraph (b)*, as respects interest chargeable for any period commencing on or after the date of the passing of this Act in respect of stamp duty due to be paid whether before, on or after such date, and

(c) in *paragraph (c)*, as respects statements delivered on or after the date of the passing of this Act.

(10) *Section 195* shall apply and have effect as respects statements which fall to be delivered on or after the date of the passing of this Act.

Amendment of section 3 (power to grant licences to deal in stamps) of Management Act of 1891.

149.—Section 3 of the Management Act of 1891 is hereby amended—

(a) in subsection (3) by the substitution of “£1,000” for “one hundred pounds”, and

(b) in subsection (5) by the substitution of “a penalty of £1,000” for “a fine of ten pounds”.

Amendment of section 4 (penalty for unauthorised dealing in stamps, etc.) of Management Act of 1891.

150.—Section 4 of the Management Act of 1891 is hereby amended—

(a) in subsection (1) by the substitution of “shall be guilty of an offence and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “shall for every such offence incur a fine of twenty pounds”, and

(b) in subsection (2) by the substitution of “penalty of £1,000” for “fine of ten pounds”.

Amendment of section 6 (penalty for hawking stamps) of Management Act of 1891.

151.—Section 6 of the Management Act of 1891 is hereby amended—

(a) in subsection (1) by the substitution of “shall, in addition to any other fine or penalty to which that person may be liable, be guilty of an offence and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “shall in addition to any other fine or penalty to which he may be liable incur a fine of twenty pounds”, and

(b) by the deletion of subsection (2).

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152.—Section 13 of the Management Act of 1891 is hereby amended by the substitution of “shall be guilty of an offence and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “shall be guilty of felony, and shall on conviction be liable to be kept in penal servitude for any term not exceeding fourteen years, or to be imprisoned with or without hard labour for any term not exceeding two years”.

Amendment of section 13 (certain offences in relation to dies and stamps provided by Commissioners to be felonies) of Management Act of 1891.

153.—Section 18 of the Management Act of 1891 is hereby amended in subsection (4) by the substitution of “a penalty of £1,000” for “a fine of fifty pounds”.

Amendment of section 18 (licensed person in possession of forged stamps to be presumed guilty until contrary is shown) of Management Act of 1891.

154.—Section 20 (as amended by the Finance Act, 1991) of the Management Act of 1891 is hereby amended by the substitution of “penalty” for “fine”.

Amendment of section 20 (as to defacement of adhesive stamps) of Management Act of 1891.

155.—Section 21 (as amended by the Finance Act, 1991) of the Management Act of 1891 is hereby amended by the substitution of “with intent to defraud the State of any duty shall be guilty of an offence and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “with intent to defraud Her Majesty of any duty shall incur a fine of 1,000 pounds”.

Amendment of section 21 (penalty for frauds in relation to duties) of Management Act of 1891.

156.—Section 5 (inserted by the Finance Act, 1991) of the Act of 1891 is hereby amended—

Amendment of section 5 (facts and circumstances affecting duty to be set forth in instruments) of Act of 1891.

(a) in subsection (3) by the substitution of “penalty” for “fine”, and

(b) in subsection (6) by the substitution of “penalty” for “fine”.

157.—Section 8 of the Act of 1891 is hereby amended in subsection (3) by the substitution of “penalty” for “fine”.

Amendment of section 8 (general direction as to the cancellation of adhesive stamps) of Act of 1891.

158.—Section 9 of the Act of 1891 is hereby amended by the substitution of “shall, without prejudice to any other fine or penalty to which that person may be liable, be guilty of an offence and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “shall, in addition to any other fine or penalty to which he may be liable, incur a fine of 1,000 pounds”.

Amendment of section 9 (penalty for frauds in relation to adhesive stamps) of Act of 1891.

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Amendment of section 16 (rolls, books, etc. to be open to inspection) of Act of 1891.

159.—Section 16 (inserted by the Finance Act, 1991) of the Act of 1891 is hereby amended in subsection (1) by the substitution of “that refusal shall be deemed to constitute a failure by that person to comply with subparagraph (iv) of paragraph (g) of subsection (2) of section 1078 of the Taxes Consolidation Act, 1997,” for “he shall be guilty of an offence and shall be liable to a fine not exceeding £1,000”.

Amendment of section 17 (penalty for enrolling, etc. instrument not duly stamped) of Act of 1891.

160.—Section 17 of the Act of 1891 is hereby amended by the substitution of “penalty” for “fine”.

Amendment of section 100 (penalty for not making out policy, or making, etc. any policy not duly stamped) of Act of 1891.

161.—Section 100 of the Act of 1891 is hereby amended by the substitution of “penalty” for “fine”.

Amendment of section 107 (penalty for issuing share warrant not duly stamped) of Act of 1891.

162.—Section 107 of the Act of 1891 is hereby amended—

- (a) by the insertion of “which is chargeable to stamp duty” after “share warrant”, and
- (b) by the substitution of “penalty” for “fine”.

Amendment of section 109 (penalty for issuing stock certificate unstamped) of Act of 1891.

163.—Section 109 of the Act of 1891 is hereby amended in subsection (2)—

- (a) by the insertion of “which is chargeable to stamp duty” after “stock certificate to bearer”, and
- (b) by the substitution of “penalty” for “fine”.

Amendment of section 49 (exemption of certain instruments from stamp duty) of Finance Act, 1969.

164.—Section 49 of the Finance Act, 1969, is hereby amended—

- (a) in subparagraph (ii) of paragraph (a) of subsection (2B) (inserted by the Finance Act, 1996) by the substitution of “dwellinghouse or apartment” for “house”,
- (b) in subparagraph (i) of paragraph (aa) (inserted by the Finance (No. 2) Act, 1998) of subsection (2B) by the substitution of “penalty” for “fine” in both places where it occurs, and
- (c) in paragraph (b) of subsection (2B) (inserted by the Finance Act, 1996) by the substitution of “dwellinghouse or apartment” for “house”.

Amendment of section 41 (stamp duty on bills of exchange and promissory notes) of Finance Act, 1970.

165.—Section 41 of the Finance Act, 1970, is hereby amended in subsection (3) (as amended by the Finance Act, 1991) by the substitution of “penalty of £500” for “fine of 500 pounds” and of “any penalty” for “any fine or penalty”.

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166.—Section 109 of the Finance Act, 1991, is hereby amended in subsection (1) by the substitution of “fine or penalty” for “fine” in both places where it occurs and by the substitution of “fines or penalties” for “fines”.

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Amendment of section 109 (application of certain provisions relating to penalties under Income Tax Act, 1967) of Finance Act, 1991.

167.—Section 107 of the Finance Act, 1994, is hereby amended—

Amendment of section 107 (particulars to be delivered in cases of transfers and leases) of Finance Act, 1994.

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

“(2) Notwithstanding anything in section 12 or 14 of the Act of 1891, any transfer or lease to which regulations made pursuant to *subsection (1)* apply shall not, other than in criminal proceedings or in civil proceedings by the Commissioners to recover stamp duty, be given in evidence, or be available for any purpose unless it is stamped with a stamp denoting that all particulars prescribed by the Commissioners have been delivered.”,

and

(b) in subsection (3) by the substitution of “and section 1078 (which relates to revenue offences) of the Taxes Consolidation Act, 1997, shall for the purposes of such offence be construed in all respects as if such offence were an offence under subsection (2) of that section” for “and shall be liable on summary conviction to a fine not exceeding £500”.

168.—Section 112 of the Finance Act, 1994, is hereby amended—

Amendment of section 112 (relief from stamp duty in respect of transfers to young trained farmers) of Finance Act, 1994.

(a) in paragraph (a) of subsection (6)—

(i) by the substitution of “penalty” for “fine” in both places where it occurs, and

(ii) by the substitution of “from the date of disposal of the land” for “from the date when the instrument was executed”,

(b) in paragraph (b) of subsection (6) by the substitution of “penalty” for “fine”, in both places where it occurs, and

(c) in the proviso to subsection (6) by the substitution of “penalty” for “fine” in each place where it occurs.

169.—Section 107 of the Finance Act, 1996, is hereby amended in subsection (4) by the substitution of “penalty” for “fine”.

Amendment of section 107 (relief for member firms) of Finance Act, 1996.

170.—Section 108 of the Finance Act, 1996, is hereby amended—

Amendment of section 108 (obligations of system-members) of Finance Act, 1996.

(a) in subsection (2) by the substitution of “penalty” for “fine”, and

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(b) in subsection (3) by the substitution of “penalty” for “fine”.

Amendment of section 14 (relief from stamp duty for certain new houses or apartments) of Finance (No. 2) Act, 1998.

171.—Section 14 of the Finance (No. 2) Act, 1998, is hereby amended in paragraph (a) of subsection (2) by the substitution of “penalty” for “fine” in both places where it occurs.

Amendment of section 26 (recovery of fines) of Management Act of 1891.

172.—Section 26 of the Management Act of 1891 is hereby amended by the substitution of the following section for section 26:

“26.—(1) Any penalty imposed by this Act or any forfeiture incurred in connection with duty shall be deemed to be a debt due to the Minister for Finance for the benefit of the Central Fund and shall be payable to the Commissioners and may (without prejudice to any other mode of recovery thereof) be sued for and recovered by action, or other appropriate proceedings, at the suit of the Attorney General or the Minister for Finance or the Commissioners in any court of competent jurisdiction, notwithstanding anything to the contrary contained in the Inland Revenue Regulation Act, 1890.

(2) The provisions of section 39 of the Finance Act, 1926, shall apply in any proceedings in the Circuit Court or the District Court for or in relation to the recovery of a penalty referred to in subsection (1).”.

Amendment of section 13 (persons dissatisfied may appeal) of Act of 1891.

173.—Section 13 (inserted by the Finance Act, 1994) of the Act of 1891 is hereby amended—

(a) by the deletion of the definition of “assessment” in subsection (1), and

(b) by the insertion of the following subsection after subsection (4):

“(4A) Notwithstanding subsection (2)—

(a) any person dissatisfied with any decision of the Commissioners as to the value of any land for the purpose of an assessment under this Act may appeal against such decision in the manner prescribed by section 33 (as amended by the Property Values (Arbitrations and Appeals) Act, 1960) of the Finance (1909-10) Act, 1910, and so much of Part I of that Act as relates to appeals shall apply to an appeal under this subsection;

(b) an appeal shall not lie under subsection (2) on any question relating to the value of any land.

(4B) The particulars of any transfer or lease which are presented to or obtained by the Commissioners under section 107 of the Finance Act, 1994, shall, in any appeal under this section, be received as prima facie evidence of all matters and things stated in such particulars.”.

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174.—Section 74 of the Finance Act, 1973, is hereby amended by the insertion of the following paragraph after paragraph (b):

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Amendment of section 74 (appeals in certain cases) of Finance Act, 1973.

“(c) in the case of assets other than land, appeal against the decision to the Appeal Commissioners (within the meaning of section 850 of the Taxes Consolidation Act, 1997) and the provisions of Chapter 1 of Part 40 (Appeals) of the Taxes Consolidation Act, 1997, shall, with any necessary modifications, apply as they apply for the purpose of income tax.”.

175.—Section 103 of the Finance Act, 1991, is hereby amended in subsection (1) by the insertion of “, subject to the right of appeal under section 13 (as amended by the *Finance Act, 1999*) of the Act of 1891,” before “(hereafter in this section referred to as the ‘ascertained value’)”.

Amendment of section 103 (provision relating to voluntary disposition *inter vivos*, etc.) of Finance Act, 1991.

176.—The First Schedule (inserted by the Finance Act, 1970) to the Act of 1891 is hereby amended by the substitution of the matter in *Schedule 5* to this Act for the matter in the said First Schedule.

Amendment of First Schedule to Act of 1891.

177.—Section 23 of the Act of 1891 is hereby amended in subsection (2) by the insertion of “or a transfer which is not chargeable to duty” after “duly stamped transfer”.

Amendment of section 23 (certain mortgages of stock to be chargeable as agreements) of Act of 1891.

178.—Section 41 of the Act of 1891 is hereby amended by the insertion of “which is chargeable to stamp duty” after “bill of sale”.

Amendment of section 41 (bills of sale) of Act of 1891.

179.—Section 118 of the Act of 1891 is hereby amended in subsection (1) by the insertion of “which is chargeable to stamp duty” after “policy of life insurance”.

Amendment of section 118 (assignment of policy of life assurance to be stamped before payment of money assured) of Act of 1891.

180.—Section 74 of the Finance (1909-10) Act, 1910, is hereby amended in subsection (2) by the substitution of “no such conveyance or transfer shall, notwithstanding section 14 of the Principal Act, be given in evidence, except in criminal proceedings or in civil proceedings by the Commissioners to recover stamp duty, or be available for any purpose unless it is stamped in accordance with subsection (3) or subsection (4) of section 12 of the Principal Act” for “no such conveyance or transfer shall be deemed to be duly stamped unless the Commissioners have expressed their opinion thereon in accordance with that section”.

Amendment of section 74 (stamp duty on gifts *inter vivos*) of Finance (1909-10) Act, 1910.

181.—Section 31 of the Finance Act, 1978, is hereby amended by the insertion of the following subsection after subsection (1):

Amendment of section 31 (certain contracts for sale of leasehold interests to be chargeable as conveyances on sale) of Finance Act, 1978.

“(1A) For the purposes of this section ‘transfer’, other than the last-mentioned reference in paragraph (ii) of subsection (1), means a transfer which would but for this section be chargeable to stamp duty.”.

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Amendment of section 19 (conveyance or transfer on sale — limit on stamp duty in the case of certain transactions between bodies corporate) of Finance Act, 1952.

182.—Section 19 of the Finance Act, 1952, is hereby amended—

- (a) in subsection (6) (inserted by the Finance Act, 1995) by the substitution of “then the exemption shall cease to be applicable and stamp duty shall be chargeable in respect of the conveyance or transfer as if subsection (1) had not been enacted together with interest thereon, by way of penalty, at the rate of 1 per cent per month or part of a month to the day on which the duty is paid, in a case to which paragraph (a) applies, from the date of the conveyance or transfer or, in a case to which paragraph (b) applies, from the date the transferor and transferee ceased to be so associated.” for so much of that subsection as is after paragraph (b), and
- (b) by the insertion of the following subsection after subsection (6):

“(7) For the purposes of subsection (2A) (inserted by the Finance Act, 1990)—

- (a) the percentage to which one body is beneficially entitled of any profits available for distribution to shareholders of another company has, subject to any necessary modifications, the meaning assigned to it by section 414 of the Taxes Consolidation Act, 1997, and
- (b) the percentage to which one body is beneficially entitled of any assets of another body available for distribution on a winding-up has, subject to any necessary modifications, the meaning assigned to it by section 415 of the Taxes Consolidation Act, 1997.”.

Amendment of section 31 (relief from capital and transfer stamp duty in case of reconstructions or amalgamations of companies) of Finance Act, 1965.

183.—Section 31 of the Finance Act, 1965, is hereby amended—

- (a) in paragraph (a) of the proviso to subsection (1) by the substitution of “the instrument” for “no such instrument shall be deemed to be duly stamped unless either it is stamped with the duty to which it would but for this section be liable or it”, and
- (b) in subsection (6) by the substitution of “the exemption shall cease to be applicable and stamp duty shall be chargeable in respect of the conveyance or transfer as if subsection (1) had not been enacted together with interest thereon, by way of penalty, at the rate of 1 per cent per month or part of a month to the day on which the duty is paid, in a case to which paragraph (a) applies, from the date of the conveyance or transfer or, in a case to which paragraph (b) applies, from the date the existing company ceased to be the beneficial owner of the shares so issued to it or, in a case to which paragraph (c) applies, from the date the transferee company ceased to be the beneficial owner of the shares so acquired.” for so much of that subsection as is after paragraph (c).

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184.—Section 9 of the Management Act of 1891 is hereby amended by the insertion of the following paragraph after paragraph (b) of the proviso:

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Amendment of section 9 (procedure for obtaining allowance) of Management Act of 1891.

“(bb) That in the case of an executed instrument the instrument has not achieved the purpose for which it was intended being the purpose of registering title to the property being conveyed or transferred by that instrument;”.

185.—The Management Act of 1891 is hereby amended by the insertion of the following section after section 12:

Allowance for lost instruments.

“12A.—(1) Where an instrument which was executed and duly stamped has been accidentally lost (in this section referred to as the ‘lost instrument’) the Commissioners may—

- (a) on application made by the person by whom it was first or alone executed,
- (b) on the giving of an undertaking by that person to deliver up the lost instrument to them to be cancelled if it is subsequently found, and
- (c) on satisfactory proof of the payment of the duty,

give other stamps of the same value in money, but the stamps so given shall only be used for the purpose of stamping another instrument made between the same persons and for the same purpose.

(2) For the purposes of this section the Commissioners may require the delivery to them, in such form as they may specify, of a statutory declaration by any person who was concerned with the delivery of the lost instrument to them for stamping.”.

186.—Section 1 (inserted by the Finance Act, 1991) of the Act of 1891 is hereby amended—

Amendment of section 1 (charge of duties in schedule) of Act of 1891.

- (a) in paragraph (b) of subsection (3) by the insertion of “within 30 days after its first execution” after “required”, and
- (b) in subsection (4) by the substitution of “the additional stamp duty” for “then additional stamp duty”.

187.—Section 12 of the Act of 1891 is hereby amended in subsection (2) by the substitution of “a copy” for “an abstract”.

Amendment of section 12 (assessment of duty by Commissioners) of Act of 1891.

188.—Section 14 of the Act of 1891 is hereby amended in subsection (4) by the insertion of “it is not chargeable with duty or” after “unless”.

Amendment of section 14 (terms upon which instruments not duly stamped may be received in evidence) of Act of 1891.

189.—Section 58 of the Act of 1891 is hereby amended in subsection (8) (inserted by the Finance Act, 1981) by the substitution of “Paragraph (15) of the Heading ‘CONVEYANCE or TRANSFER on sale of any stocks or marketable securities or a policy of insurance

Amendment of section 58 (direction as to duty in certain cases) of Act of 1891.

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or a policy of life insurance' ” for “Paragraph 8 of the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities’ ”.

Amendment of section 77 (directions as to duty in certain cases) of Act of 1891.

190.—Section 77 of the Act of 1891 is hereby amended in subsection (6) (inserted by the Finance (No. 2) Act, 1998) by the substitution of “the consideration (other than rent) attributable to the first-mentioned lease” for “the consideration attributable to the first-mentioned lease”.

Amendment of section 122 (definitions) of Act of 1891.

191.—Section 122 of the Act of 1891 is hereby amended in column (1) of the Table to the definition of “accountable person” (inserted by the Finance Act, 1991) in subsection (1)—

- (a) by the insertion of “or a policy of insurance or a policy of life insurance” after “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities”, and
- (b) by the substitution of “which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas” for “and WARRANT OF ATTORNEY to confess and enter up judgement”.

Amendment of section 5 (extension of stamp duty on share warrants and stock certificates to bearer) of Finance Act, 1899.

192.—Section 5 of the Finance Act, 1899, is hereby amended in subsection (1) by the substitution of the “Companies Act, 1963” for “Companies Act, 1867”.

Amendment of section 40 (stamp duties in foreign currencies) of Finance Act, 1933.

193.—Section 40 of the Finance Act, 1933, is hereby amended by the substitution of “date of execution of such instrument” for “date of such instrument”.

Amendment of section 69 (statement to be charged with stamp duty) of Finance Act, 1973.

194.—Section 69 of the Finance Act, 1973, is hereby amended—

- (a) in subsection (1) by the substitution of “1 per cent of the amount determined in accordance with the said section 70 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 pound:” for “£1 for every £100 or part of £100 of the amount determined in accordance with the said section 70;”,
- (b) in subsection (3) by the substitution of “1 per cent per month or part of a month” for “9 per cent. per annum”, and
- (c) by the substitution of the following subsection for subsection (4):

“(4) The registrar shall not incorporate a capital company which is to be incorporated under the Companies Act, 1963, or register a capital company which is to be formed under the Limited Partnerships Act, 1907, until the statement referred to in

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subsection (1) of this section in relation to the company is duly stamped or in the case of a capital company specified in section 73 of this Act the statement has, in accordance with the provisions of section 12 of the Stamp Act, 1891, been stamped with a particular stamp denoting that it is not chargeable with stamp duty.”.

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195.—Section 92 of the Finance Act, 1982, is hereby amended—

Amendment of section 92 (levy on certain premiums of insurance) of Finance Act, 1982.

(a) in subsection (1) in the definition of “insurer” by the substitution of “European Communities (Non-Life Insurance) Framework Regulations, 1994 (S.I. No. 359 of 1994)” for “European Communities (Non-Life Insurance) Regulations, 1976 (S.I. No. 115 of 1976)”, and

(b) in subsection (6) by the substitution of “the insurer shall be liable to pay, by way of penalty and in addition to the duty” for “the insurer shall be liable to pay, in addition to the duty”.

196.—Section 208 of the Finance Act, 1992, is hereby amended—

Amendment of section 208 (location of insurance risk for stamp duty purposes) of Finance Act, 1992.

(a) by the substitution of the following paragraph for paragraph (d) (inserted by the Finance Act, 1995):

“(d) in any other case, if the policyholder has his or her habitual residence in the State, or where the policyholder is a legal person other than an individual, if the policyholder’s head office or branch to which the policy relates is situated in the State.”,

and

(b) by the insertion of the following subsection:

“(2) In paragraph (d) of subsection (1) ‘branch’ means an agency or branch of a policyholder or any permanent presence of a policyholder in the State even if that presence does not take the form of an agency or branch but consists merely of an office managed by the policyholder’s own staff or by a person who is independent but has permanent authority to act for the policyholder in the same way as an agency.”.

197.—Each enactment mentioned in *column (2) to Schedule 6* to this Act is hereby repealed to the extent specified opposite that mentioned in *column (3)* of that Schedule:

Repeals (*Chapter 2*).

Provided that the provisions of the repealed enactments shall continue to apply:

- (a) to instruments executed before the date of the passing of this Act,
- (b) to acts or omissions which occurred before the date of the passing of this Act,
- (c) to appeals against a decision of the Revenue Commissioners as to the value of any property for the purpose of an

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assessment being an assessment made before the date of the passing of this Act, and

- (d) in so far as they relate to section 18 of the Finance Act, 1943, and section 969 of the Taxes Consolidation Act, 1997, to persons committed to prison before the date of the passing of this Act,

to such extent as if this Act had not been enacted.

PART 5

Residential Property Tax

Amendment of section 100 (market value exemption limit) of Finance Act, 1983.

198.—(1) Section 100 of the Finance Act, 1983, is hereby amended in subsection (1) by the substitution in the definition of “general exemption limit” of “£200,000” for “£94,000” (inserted by the Finance Act, 1995) and of “1999” for “1995” (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 the 5th day of April, 1999.

PART 6

Capital Acquisitions Tax

Interpretation (*Part 6*).

199.—In this Part “the Principal Act” means the “Capital Acquisitions Tax Act, 1976”.

Amendment of section 36 (delivery of returns) of Principal Act.

200.—Section 36 of the Principal Act is hereby amended—

- (a) in paragraph (a) of subsection (1) by the substitution of the following subparagraph for subparagraph (iii):

“(iii) a reference, other than in subparagraph (i) or subsection (13) or (14), to a gift or a taxable gift includes a reference to an inheritance or a taxable inheritance, as the case may be; and”,

- (b) in subsection (4) by the substitution of the following paragraphs for paragraphs (c) and (d):

“(c) so far as it is a taxable gift taken on or after the 26th day of March, 1984, and before the 2nd day of December, 1998, the aggregate of the taxable values of all taxable gifts taken by the donee on or after the 2nd day of June, 1982, exceeds an amount which is 80 per cent of the threshold amount (as defined in the Second Schedule) which applies in the computation of the tax on that aggregate; or

- (d) so far as it is a taxable gift taken on or after the 2nd day of December, 1998, the aggregate of the taxable values of all taxable gifts taken by the donee on or after the 2nd day of December, 1988, exceeds an amount which is 80 per cent of the threshold amount (as defined in the Second Schedule) which applies in the computation of the tax on that aggregate; or

- (e) 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

- (c) by the insertion of the following subsections after subsection (11):

“(12) The Commissioners may by notice in writing require any person to deliver to them within such time, not being less than 30 days, as may be specified in the notice, a full and true return showing details of every taxable gift (including the property comprised therein) taken by that person during the period specified in the notice or, as the case may be, indicating that that person has taken no taxable gift during that period.

(13) As respects a taxable gift to which this subsection applies, any accountable person who is a disponer shall within 4 months of the valuation date deliver to the Commissioners a full and true return—

- (a) of all the property comprised in such gift on the valuation date,
- (b) of an estimate of the market value of such property on the valuation date, and
- (c) of such particulars as may be relevant to the assessment of tax in respect of the gift.

(14) Subsection (13) applies to a taxable gift taken on or after the 11th day of February, 1999, in the case where—

- (a) the taxable value of the taxable gift exceeds an amount which is 80 per cent of the class 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,
- (b) the taxable value of the taxable gift taken by the donee from the disponer increases the total taxable value of all taxable gifts and taxable inheritances taken on or after the 2nd day of December, 1988, by the donee from the disponer from an amount less than or equal to the amount specified in paragraph (a) to an amount which exceeds the amount so specified, or
- (c) the total taxable value of all taxable gifts and taxable inheritances taken on or after the 2nd day of December, 1988, by the donee from the disponer exceeds the amount specified in paragraph (a) and the donee takes a further taxable gift from the disponer.

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(15) Where, on or after the 11th day of February, 1999, under or in consequence of any disposition made by a person who is living and domiciled in the State at the date of the disposition, property becomes subject to a discretionary trust, the disponent shall within 4 months of the date of the disposition deliver to the Commissioners a full and true return of—

- (a) the terms of the discretionary trust,
- (b) the names and addresses of the trustees and objects of the discretionary trust, and
- (c) an estimate of the market value at the date of the disposition of the property becoming subject to the discretionary trust.”.

Amendment of Second Schedule (computation of tax) to Principal Act.

201.—(1) The Second Schedule to the Principal Act is hereby amended in paragraph 3(a)(ii) (inserted by the Finance Act, 1997) by the substitution of “2nd day of December, 1988” for “2nd day of June, 1982”.

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 2nd day of December, 1998.

Amendment of section 41 (payment of tax and interest on tax) of Principal Act.

202.—(1) Section 41 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (2):

“(2A) Notwithstanding the provisions of subsection (2), interest shall not be payable upon the tax—

- (a) to the extent to which section 19(5)(a) applies, for the duration of the period from the valuation date to the date the agricultural value ceases to be applicable,
- (b) to the extent to which section 55(4) applies, for the duration of the period from the valuation date to the date the exemption ceases to apply,
- (c) to the extent to which section 135(2) of the Finance Act, 1994, applies, for the duration of the period from the valuation date to the date the reduction which would otherwise fall to be made under section 126 of that Act ceases to be applicable,
- (d) to the extent to which section 166(6) of the Finance Act, 1995, applies, for the duration of the period from the valuation date to the date the exemption ceases to apply.”.

(2) This section shall have effect where the event which causes the exemption or reduction in question to cease to be applicable occurs on or after the 11th day of February, 1999.

Amendment of section 51 (appeals regarding value of real property) of Principal Act.

203.—Section 51 of the Principal Act is hereby amended by the insertion of the following subsection:

“(2) The particulars of any transfer or lease which are presented to or obtained by the Commissioners under section 107 of the Finance Act, 1994, shall, in any appeal under this

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section, be received as prima facie evidence of all matters and things stated in such particulars.” Pt.6 S.203

204.—Section 53(1) of the Principal Act shall have effect, as respects relevant periods ending after the 31st day of December, 1998, as if “£1,000” were substituted for “£500” (provided for by section 44 of the Finance Act, 1978).

Amendment of section 53 (exemption of small gifts) of Principal Act.

205.—Section 58 of the Principal Act is hereby amended by the insertion of the following subsection after subsection (2):

Amendment of section 58 (exemption of certain receipts) of Principal Act.

“(3) (a) The receipt by an incapacitated individual of the whole or any part of trust funds which are held on a qualifying trust, or of the income therefrom, shall not be a gift or an inheritance.

(b) In this subsection ‘incapacitated individual’, ‘trust funds’ and ‘qualifying trust’ have the meanings assigned to them, respectively, by section 189A (inserted by the *Finance Act, 1999*) of the Taxes Consolidation Act, 1997.

(c) This subsection shall apply in relation to gifts or inheritances taken on or after the 6th day of April, 1997.”.

206.—The Principal Act is hereby amended by the insertion of the following section after section 59A:

Exemption relating to retirement benefits.

“59B.—(1) The whole or any part of a retirement fund which is comprised in an inheritance which is taken upon the death of a disponent dying on or after the date of the passing of the *Finance Act, 1999*, shall be exempt from tax in relation to that inheritance and in relation to a charge for tax arising on that death by virtue of section 110 of the Finance Act, 1993, and the value thereof shall not be taken into account in computing tax, where—

(a) the disposition under which the inheritance is taken is the will or intestacy of the disponent, and

(b) the successor is a child of the disponent and had attained 21 years of age at the date of that disposition.

(2) In this section ‘retirement fund’, in relation to an inheritance taken on the death of a disponent, means an approved retirement fund or an approved minimum retirement fund, within the meaning of section 784A or 784C of the Taxes Consolidation Act, 1997, being a fund which is wholly comprised of all or any of the following, that is to say—

(a) property which represents in whole or in part the accrued rights of the disponent, or of a predeceased spouse of the disponent, under an annuity contract or retirement benefits scheme approved by the Revenue Commissioners for the purposes of Chapter 1 or Chapter 2 of Part 30 of that Act,

(b) any accumulations of income thereof, or

(c) property which represents in whole or in part those accumulations.”.

PART 7

Miscellaneous

Amendment of Chapter 4 (revenue powers) of Part 38 of Taxes Consolidation Act, 1997.

207.—The Taxes Consolidation Act, 1997, is hereby amended in Chapter 4 of Part 38—

(a) by the substitution for section 900 of the following section:

“Power to call for production of books, information, etc.

900.—(1) In this section and in section 901—

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section, or as the case may be, section 901;

‘books, records or other documents’ includes—

- (a) accounts (including balance sheets) relating to a trade or profession and where the accounts have been audited, a copy of the auditor’s certificate,
- (b) books, accounts, rolls, registers, papers and other documents, 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 the use of electronics or otherwise) which is capable of being reproduced in a legible form,
- (c) every electronic or other automatic means, if any, by which any such thing in non-legible form is so capable of being reproduced, and

- (d) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical or partly mechanical process in use from time to time and documents which are produced by any photographic or photo-static process;

‘judge’ means a judge of the High Court;

‘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;

‘tax’ means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) Subject to this section, an authorised officer may serve on a person a notice in writing, requiring the person, within such period as may be specified in the notice, not being less than 21 days from the date of the service of the notice, to do either or both of the following, namely—

- (a) to deliver to, or to make available for inspection by, the authorised officer such books, records or other documents as are in the person’s possession, power or procurement and as contain, or may (in the authorised officer’s opinion formed on reasonable grounds) contain, information relevant to a liability in relation to the person,
- (b) to furnish to the authorised officer, in writing or otherwise, such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the notice.

(3) A notice shall not be served on a person under subsection (2) unless the person has first been given a reasonable opportunity to deliver, or as the case may be, to make available to the authorised officer concerned the books, records or other documents in question, or to furnish the information, explanations and particulars in question.

(4) Nothing in this section shall be construed as requiring a person who is carrying on a profession, and on whom a notice under subsection (2) has been served, to furnish any information, explanations and particulars relating to a client to an authorised officer, or to deliver to, or make available for inspection by, an authorised officer any books, records or other documents relating to a client, other than such—

- (a) as pertain to the payment of fees to the person carrying on the profession or to other financial transactions of the person carrying on the profession, or
- (b) as are otherwise material to the liability in relation to the person carrying on the profession,

and in particular that person shall not be required to disclose any information or professional advice of a confidential nature given to a client.

(5) Where, in compliance with the requirements of a notice served on a person under subsection (2), the person makes available for inspection by an authorised officer, books, records or other documents, the person shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and

any data equipment or any associated apparatus or material.

(6) Where, under subsection (2), a person makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.

(7) A person who refuses or fails to comply with a notice served on the person under subsection (2) or fails to afford the assistance referred to in subsection (5) shall be liable to a penalty of £1,500.”,

(b) by the substitution for section 901 of the following section:

“Application to High Court: production of books, information, etc.

901.—(1) An authorised officer may make an application to a judge for an order requiring a person, to do either or both of the following, namely—

(a) to deliver to the authorised officer, or to make available for inspection by the authorised officer, such books, records or other documents as are in the person’s power, possession or procurement and as contain, or may (in the authorised officer’s opinion formed on reasonable grounds) contain, information relevant to a liability in relation to the person,

(b) to furnish to the authorised officer such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the application.

(2) Where the judge, to whom an application is made under subsection (1), is satisfied that there are reasonable grounds for the application being made, that judge may, subject to such conditions as he or she may consider proper and specify in the order, make an order requiring the person to whom the application relates—

(a) to deliver to the authorised officer, or to make available for inspection by the authorised officer, such books, records or other documents, and

(b) to furnish to the authorised officer such information, explanations and particulars,

as may be specified in the order.

(3) Nothing in this section shall oblige a person who is carrying on a profession to furnish any information, explanations or particulars relating to a client to an authorised officer, or to deliver to, or make available for inspection by, an authorised officer any books, records or other documents relating to the client, without the consent of the client, other than such—

(a) as pertain to the payment of fees to the person carrying on the profession or to other financial transactions of the person carrying on the profession, or

(b) as are otherwise material to the liability in relation to the person carrying on the profession,

and in particular that person shall not be required to disclose any information or professional advice of a confidential nature given to the client.”,

(c) by the substitution for section 902 of the following section:

“Information to be furnished by third party: request of an authorised officer.

902.—(1) In this section and in section 902A—

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section, or as the case may be, section 902A;

‘books, records or other documents’ and ‘liability’, in relation to a person, have, respectively, the meaning assigned to them by section 900(1).

(2) Notwithstanding any obligation as to secrecy or other restriction upon disclosure of information imposed by or under statute or otherwise, and subject to this section, an authorised

officer may for the purpose of enquiring into a liability in relation to a person (in this section referred to as 'the taxpayer') serve on any other person (not being a financial institution within the meaning of section 906A) a notice in writing requiring that other person, within such period as may be specified in the notice, not being less than 30 days from the date of the service of the notice, to do either or both of the following, namely—

- (a) to deliver to, or make available for inspection by, the authorised officer, such books, records or other documents as are in the other person's power, possession or procurement and as contain, or may (in the authorised officer's opinion formed on reasonable grounds) contain, information relevant to a liability in relation to the taxpayer,
- (b) to furnish to the authorised officer, in writing or otherwise, such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the notice.

(3) A notice shall not be served on a person under subsection (2) unless the authorised officer concerned has reasonable grounds to believe that the person is likely to have information relevant to the establishment of a liability in relation to the taxpayer.

(4) The persons who may be treated as a taxpayer for the purposes of this section include a company which has been dissolved and an individual who has died.

(5) A notice under subsection (2) shall name the taxpayer in relation to whose liability the authorised officer is enquiring.

(6) Where an authorised officer serves a notice under subsection (2), a copy of such notice shall be given by

the authorised officer to the taxpayer concerned.

(7) Where, under subsection (2), a person has delivered any books, records or other documents and those books, records or other documents are retained by the authorised officer, the person shall, at all reasonable times and subject to such reasonable conditions as may be determined by the authorised officer, be entitled to inspect those books, records or other documents and to obtain copies of them.

(8) Where, under subsection (2), a person makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.

(9) Nothing in this section shall be construed as requiring any person carrying on a profession, and on whom a notice is served under subsection (2), to furnish any information, explanations and particulars relating to a client to an authorised officer or to deliver to, or make available for inspection by, an authorised officer any books, records or other documents relating to a client, other than such—

(a) as pertain to the payment of fees or other financial transactions, or

(b) as are otherwise material to a liability in relation to the client,

and in particular such person shall not be required to disclose any information or professional advice of a confidential nature.

(10) Where, in compliance with the requirements of a notice under subsection (2), a person makes available for inspection by an authorised officer, books, records or other documents, the person shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in non-legible form,

are capable of being reproduced in a legible form and any data equipment or any associated apparatus or material.

(11) A person who fails or refuses to comply with a notice served on the person under subsection (2) or to afford the assistance referred to in subsection (10) shall be liable to a penalty of £1,500, but nothing in section 1078 shall be construed as applying to such failure or refusal.”,

(d) by the insertion after section 902 of the following section:

“Application to High Court: information from third party.

902A.—(1) In this section—

‘the Acts’ has the meaning assigned to it by section 1078(1);

‘judge’ means a judge of the High Court;

‘a taxpayer’ means any person including a person whose identity is not known to the authorised officer, and a group or class of persons whose individual identities are not so known.

(2) An authorised officer may make an application to a judge for an order requiring a person (other than a financial institution within the meaning of section 906A) to do either or both of the following, namely—

- (a) to deliver to the authorised officer, or to make available for inspection by the authorised officer, such books, records or other documents as are in the person’s power, possession or procurement and as contain, or may (in the authorised officer’s opinion formed on reasonable grounds) contain, information relevant to a liability in relation to a taxpayer,
- (b) to furnish to the authorised officer such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the application.

(3) An authorised officer shall not make an application under subsection (2) without the consent in writing of a Revenue Commissioner, and without being satisfied—

(a) that there are reasonable grounds for suspecting that the taxpayer, or, where the taxpayer is a group or class of persons, all or any one of those persons, may have failed or may fail to comply with any provision of the Acts,

(b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax (having regard to the amount of a liability in relation to the taxpayer, or where the taxpayer is a group or class of persons, the amount of a liability in relation to all or any one of those persons, that arises or might arise from such failure), and

(c) that the information—

(i) which is likely to be contained in the books, records or other documents to which the application relates, or

(ii) which is likely to arise from the information, explanations and particulars to which the application relates,

is relevant to the proper assessment or collection of tax.

(4) Where the judge, to whom an application is made under subsection (2), is satisfied that there are reasonable grounds for the application being made, that judge may, subject to such conditions as he or she may consider proper and specify in the order, make an order requiring the person to whom the application relates—

(a) to deliver to the authorised officer, or to make available for inspection by the authorised officer, such books, records or other documents, and

(b) to furnish to the authorised officer such information, explanations and particulars,

as may be specified in the order.

(5) The persons who may be treated as a taxpayer for the purposes of this section include a company which has been dissolved and an individual who has died.

(6) Nothing in this section shall oblige any person carrying on a profession to furnish any information, explanations or particulars relating to a client to an authorised officer, or to deliver to, or make available for inspection by, an authorised officer any books, records or other documents relating to a client, without the client’s consent, other than such—

(a) as pertain to the payment of fees or other financial transactions, or

(b) as are otherwise material to a liability in relation to the client,

and in particular such person shall not be required to disclose any information or professional advice of a confidential nature.

(7) Every hearing of an application for an order under this section and of any appeal in connection with that application shall be held in camera.”,

(e) by the insertion after section 904 of the following section:

“Power of inspection: returns and collection of appropriate tax.

904A.—(1) In this section—

‘amount on account of appropriate tax’, ‘appropriate tax’, ‘deposit’, ‘interest’, ‘relevant deposit taker’, ‘relevant interest’ and ‘return’ have, respectively, the meaning assigned to them by section 256(1);

'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 a financial institution, or used in the transfer department of a financial institution acting as registrar of securities, 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 the 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 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 between a relevant deposit taker and a person to whom it pays interest;

'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;

'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners. Pt.7 S.207

(2) An authorised officer, having regard to Chapter 4 of Part 8, may at all reasonable times enter any premises or place of business of a relevant deposit taker for the purposes of auditing for a year of assessment—

(a) the return made by the relevant deposit taker of—

(i) the relevant interest paid by it in that year,

(ii) the appropriate tax in relation to the payment of that interest,

(iii) the amount of interest in respect of which an amount on account of appropriate tax is due and payable for that year, and

(iv) the amount on account of appropriate tax so due and payable, and

(b) whether payments of interest were properly made by the relevant deposit taker without deducting appropriate tax in relation to the payments.

(3) Without prejudice to the generality of subsection (2), the authorised officer may—

(a) examine the procedures put in place by the relevant deposit taker for the purpose of ensuring compliance by the relevant deposit taker with its obligations under section 257(2), and

(b) check a sample of accounts into which deposits, which have not been treated by the relevant deposit taker as relevant deposits, have been paid, to determine whether—

(i) the procedures referred to in paragraph (a) have been observed

in practice and whether they are adequate,

- (ii) the relevant deposit taker is, in respect of each deposit in the sample of deposits, in possession of a declaration mentioned in section 263, 265 or 266, as the case may be, and
- (iii) there is information in the relevant deposit taker's possession which can reasonably be taken to indicate that one or more of such deposits is or may be a relevant deposit.

(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 deposits, the relevant deposit taker has incorrectly treated them as not being relevant deposits, 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 a relevant deposit taker or an employee of the relevant deposit taker 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 employee of 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.

(7) 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.” Pt.7 S.207

(f) in section 905—

(i) in subsection (2) by the deletion of paragraph (d),

and

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

“(2A) (a) In this subsection ‘the Acts’ has the meaning assigned to it by section 1078(1).

(b) Without prejudice to any power conferred by subsection (2), if a Judge of the District Court is satisfied by information on oath that there are reasonable grounds for suspecting—

(i) that a person may have failed or may fail to comply with any provision of the Acts,

(ii) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax (having regard to the amount of any tax liability that arises or might arise from such failure), and

(iii) that records, which are material to the proper assessment or collection of tax are likely to be kept or concealed at any premises or place,

the Judge may issue a search warrant.

(c) A search warrant issued under this subsection shall be expressed and shall operate to authorise an authorised officer accompanied by such other named officers of the Revenue Commissioners and such other named persons as the authorised officer considers necessary, at any time or times within one month of the date of issue of the warrant, to enter (if need be by force) the premises or other place named or specified in the warrant, to search such premises or other place, to examine anything found there, to inspect any records found there and, if there are reasonable grounds for suspecting that any records found there are

material to the proper assessment or collection of tax, or that the records may be required for the purpose of any legal proceedings instituted by an officer of the Revenue Commissioners or for the purpose of any criminal proceedings, remove such records and retain them for so long as they are reasonably required for the purpose aforesaid.”,

(g) by the insertion after section 906 of the following section:

“Information to be furnished by financial institutions.

906A.—(1) In this section and in sections 907 and 908—

‘the Acts’ has the meaning assigned to it by section 1078(1);

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section, or, as the case may be, section 907 or 908;

‘books, records or other documents’ includes—

(a) any records used in the business of a financial institution, or used in the transfer department of a financial institution acting as registrar of securities, 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 the use of electronics or otherwise) which is capable of being reproduced in a legible form,

(b) every electronic or other automatic means, if any, by which any such thing in non-legible form is so capable of being reproduced,

(c) documents in manuscript, documents which are

typed, printed, stencilled Pt.7 S.207
 or created by any other
 mechanical or partly
 mechanical process in use
 from time to time and
 documents which are pro-
 duced by any photo-
 graphic or photostatic pro-
 cess, and

- (d) correspondence and records
 of other communications
 between a financial insti-
 tution and its customers;

‘connected person’ has the same
 meaning as in section 10; but an indi-
 vidual (other than in the capacity as a
 trustee of a settlement) shall be con-
 nected with another individual only if
 that other individual is the spouse of
 or a minor child of the first-men-
 tioned individual;

‘deposit’ and ‘interest’ have, respect-
 ively, the meaning assigned to them
 by section 256(1);

‘financial institution’ means

- (a) a person who holds or has
 held a licence under
 section 9 of the Central
 Bank Act, 1971, and
- (b) a person referred to in
 section 7(4) of that Act;

‘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;

‘tax’ means any tax, duty, levy or
 charge under the care and manage-
 ment of the Revenue Commissioners.

(2) Notwithstanding any obligation
 as to secrecy or other restriction upon
 disclosure of information imposed by
 or under statute or otherwise, and
 subject to this section, an authorised
 officer may, for the purpose of enquir-
 ing into a liability in relation to a per-
 son (in this section referred to as the
 ‘taxpayer’), serve on a financial insti-
 tution a notice in writing requiring the
 financial institution, within such per-
 iod as may be specified in the notice,
 not being less than 30 days from the
 date of the service of the notice, to do

either or both of the following, namely—

- (a) to make available for inspection by the authorised officer such books, records or other documents as are in the financial institution's power, possession or procurement and as contain, or may (in the authorised officer's opinion formed on reasonable grounds) contain, information relevant to a liability in relation to the taxpayer,
- (b) to furnish to the authorised officer, in writing or otherwise, such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the notice.

(3) Where, in compliance with the requirements of a notice under subsection (2), a financial institution makes available for inspection by an authorised officer, books, records or other documents, it shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form and any data equipment or any associated apparatus or material.

(4) An authorised officer shall not serve a notice on a financial institution under subsection (2) without the consent in writing of a Revenue Commissioner and without having reasonable grounds to believe that the financial institution is likely to have information relevant to a liability in relation to the taxpayer.

(5) Without prejudice to the generality of subsection (2), the books, records or other documents which a financial institution may be required

by notice under that subsection to deliver or to make available and the information, explanations and particulars which it may likewise be required to furnish, may include books, records or other documents and information, explanations and particulars relating to a person who is connected with the taxpayer.

(6) The persons who may be treated as a taxpayer for the purposes of this section include a company which has been dissolved and an individual who has died.

(7) A notice served under subsection (2) shall name the taxpayer in relation to whose liability the authorised officer is enquiring.

(8) Where an authorised officer serves a notice under subsection (2), a copy of such notice shall be given by the authorised officer to the taxpayer concerned.

(9) Where, in compliance with a notice served under subsection (2), a financial institution makes books, records or other documents available for inspection by an authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.

(10) A financial institution which fails or refuses to comply with a notice issued under subsection (2) or which fails or refuses to afford reasonable assistance to an authorised officer as required under subsection (3), shall be liable to a penalty of £15,000 and, if the failure or refusal to comply with such notice continues after the expiry of the period specified in the notice served under subsection (2), a further penalty of £2,000 for each day on which the failure or refusal continues.”,

(h) by the substitution for section 907 of the following section:

“Application to Appeal Commissioners: information from financial institutions.

907.—(1) In this section ‘a taxpayer’ means any person including—

(a) a person whose identity is not known to the authorised officer, and a group or class of persons whose individual identities are not so known, and

(b) a person by or in respect of whom a declaration has been made under section 263(1) declaring that the person is beneficially entitled to all or part of the interest in relation to a deposit.

(2) An authorised officer may, subject to this section, make an application to the Appeal Commissioners for their consent, under subsection (5), to the service by him or her of a notice on a financial institution requiring the financial institution to do either or both of the following, namely—

(a) to make available for inspection by the authorised officer, such books, records or other documents as are in the financial institution's power, possession or procurement as contain, or may (in the authorised officer's opinion formed on reasonable grounds) contain, information relevant to a liability in relation to a taxpayer,

(b) to furnish to the authorised officer such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the application.

(3) An authorised officer shall not make an application under subsection (2) without the consent in writing of a Revenue Commissioner, and without being satisfied—

(a) that there are reasonable grounds for suspecting that the taxpayer, or where the taxpayer is a group or class of persons, all or any one of those persons, may have failed or may fail to comply with any provision of the Acts,

(b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax (having regard to the amount of a liability in relation to the taxpayer, or where the taxpayer is a group or class of persons, the amount of a liability in relation to all or any one of those persons, that arises or might arise from such failure), and

(c) that the information—

(i) which is likely to be contained in the books, records or other documents to which the application relates, or

(ii) which is likely to arise from the information, explanations and particulars to which the application relates,

is relevant to the proper assessment or collection of tax.

(4) Without prejudice to the generality of subsection (2), the authorised officer may make an application under that subsection to the Appeal Commissioners for their consent, under subsection (5), to the service by him or her of a notice on a financial institution in respect of the matters referred to in paragraphs (a) and (b) of subsection (2) in so far as they relate to a person who is connected with the taxpayer.

(5) Where the Appeal Commissioners determine that in all the circumstances there are reasonable grounds for the application being made, they may give their consent to the service by the authorised officer concerned of a notice on the financial institution, requiring the financial institution—

(a) to make available for inspection by the authorised officer, such books, records or other documents, and

(b) to furnish to the authorised officer such information, explanations and particulars,

of the kind referred to in subsection (2) as may, with the Appeal Commissioners' consent, be specified in the notice.

(6) The persons who may be treated as a taxpayer for the purposes of this section include a company which has been dissolved and an individual who has died.

(7) Where the Appeal Commissioners have given their consent in accordance with this section, the authorised officer shall, as soon as practicable, but not later than 14 days from the time that such consent was given, serve a notice on the financial institution concerned and stating that—

(a) such consent has been given, and

(b) the financial institution should, within a period of 30 days from the date of the service of the notice, comply with the requirements specified in the notice.

(8) (a) Subject to paragraph (b), an application by an authorised officer under subsection (2) shall, with any necessary modifications, be heard by the Appeal Commissioners as if it were an appeal against an assessment to income tax.

(b) Notwithstanding section 933(4), a determination by the Appeal Commissioners under this section shall be final and conclusive.

(9) A financial institution which fails to comply with a notice served on the financial institution by an authorised officer in accordance with this section shall be liable to a penalty of £15,000 and, if the failure continues after the expiry of the period specified in subsection (7)(b), a further penalty of £2,000 for each day on which the failure so continues.”,

(j) by the substitution for section 908 of the following section: Pt.7 S.207

“Application to High Court seeking order requiring information: financial institutions.

908.—(1) In this section—

‘judge’ means a judge of the High Court;

‘a taxpayer’ means any person including—

(a) a person whose identity is not known to the authorised officer, and a group or class of persons whose individual identities are not so known, and

(b) a person by or in respect of whom a declaration has been made under section 263(1) declaring that the person is beneficially entitled to all or part of the interest in relation to a deposit.

(2) An authorised officer may, subject to this section, make an application to a judge for an order requiring a financial institution, to do either or both of the following, namely—

(a) to make available for inspection by the authorised officer, such books, records or other documents as are in the financial institution’s power, possession or procurement as contain, or may (in the authorised officer’s opinion formed on reasonable grounds) contain information relevant to a liability in relation to a taxpayer,

(b) to furnish to the authorised officer such information, explanations and particulars as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to any such liability,

and which are specified in the application.

(3) An authorised officer shall not make application under subsection (2) without the consent in writing of a

Revenue Commissioner, and without being satisfied—

- (a) that there are reasonable grounds for suspecting that the taxpayer, or, where the taxpayer is a group or class of persons, all or any one of those persons, may have failed or may fail to comply with any provision of the Acts,
- (b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax (having regard to the amount of a liability in relation to the taxpayer, or where the taxpayer is a group or class of persons, the amount of a liability in relation to all or any one of them, that arises or might arise from such failure), and
- (c) that the information—
 - (i) which is likely to be contained in the books, records or other documents to which the application relates, or
 - (ii) which is likely to arise from the information, explanations and particulars to which the application relates,

is relevant to the proper assessment or collection of tax.

(4) Without prejudice to the generality of subsection (2), the authorised officer may make an application under that subsection to the judge for an order in respect of the matters referred to in paragraphs (a) and (b) of that subsection in so far as they relate to a person who is connected with the taxpayer.

(5) Where the judge, to whom an application is made under subsection (2), is satisfied that there are reasonable grounds for the application being made, the judge may, subject to such conditions as he or she may consider

proper and specify in the order, make an order requiring the financial institution—

- (a) to make available for inspection by the authorised officer, such books, records or other documents, and
- (b) to furnish to the authorised officer such information, explanations and particulars,

as may be specified in the order.

(6) The persons who may be treated as a taxpayer for the purposes of this section include a company which has been dissolved and an individual who has died.

(7) Every hearing of an application for an order under this section and of any appeal in connection with that application shall be held in camera.

(8) Where a judge makes an order under this section, he or she may also, on the application of the authorised officer concerned, make a further order prohibiting, for such period as the judge may consider proper and specify in the order, any transfer of, or any dealing with, without the consent of the judge, any assets or moneys of the person to whom the order relates that are in the custody of the financial institution at the time the order is made.

(9) (a) Where—

- (i) a copy of any affidavit and exhibits grounding an application under subsection (2) or (8) and any order made under subsection (5) or (8) are to be made available to the taxpayer, or the taxpayer’s solicitor or to the financial institution or the financial institution’s solicitor, as the case may be, and

- (ii) the judge is satisfied on the hearing of the application that there

are reasonable grounds in the public interest that such copy of an affidavit, exhibits or order, as the case may be, should not include the name or address of the authorised officer,

such copy, or copies or order shall not include the name or address of the authorised officer.

(b) Where, on any application to the judge to vary or discharge an order made under this section, it is desired to cross-examine the deponent of any affidavit filed by or on behalf of the authorised officer and the judge is satisfied that there are reasonable grounds in the public interest to so order, the judge shall order either or both of the following—

(i) that the name and address of the authorised officer shall not be disclosed in court, and

(ii) that such cross-examination shall only take place in the sight and hearing of the judge and in the hearing only of all other persons present at such cross-examination.”,

(j) by the insertion after section 908 of the following section:

“Revenue offence: power to obtain information from financial institutions.

908A.—(1) In this section—

‘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 a financial institution, or used in the transfer department of a financial institution acting

as registrar of securities, Pt.7 S.207
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 the use of electronics or otherwise) which is capable of being reproduced in a legible form, and
- (b) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical or partly mechanical process in use from time to time and documents which are produced by any photographic or photostatic process;

‘judge’ means a judge of the Circuit Court or of the District Court;

‘financial institution’ means—

- (a) a person who holds or has held a licence under section 9 of the Central Bank Act, 1971, and
- (b) a person referred to in section 7(4) of that Act;

‘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;

‘offence’ means an offence falling within section 1078(2);

‘tax’ means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) 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—

- (a) 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 offence), and
- (b) 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 offence,

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 for the purposes of investigation of the offence.

(3) An offence the commission of which, if considered alone, would not be regarded as resulting in serious prejudice to the proper assessment or collection of tax for the purposes of this section may nevertheless be so regarded if there are reasonable grounds for suspecting that the commission of the offence forms part of a course of conduct which is, or but for its detection would be, likely to result in serious prejudice to the proper assessment or collection of tax.

(4) Subject to subsection (5), a copy of any entry in books, records or other documents of a financial institution shall in all legal proceedings be received as prima facie evidence of such an entry, and of the matters, transactions, and accounts therein recorded.

(5) A copy of an entry in the books, records or other documents of a financial institution shall not be received in evidence in legal proceedings unless it is further proved that—

(a) in the case where the copy sought to be received in evidence has been reproduced in a legible form directly by either mechanical or electronic means, or both such means, from a financial institution's books, records or other documents maintained in a non-legible form, it has been so reproduced;

(b) in the case where the copy sought to be received in evidence has been made (either directly or indirectly) from a copy to which paragraph (a) would apply—

(i) the copy sought to be so received has been examined with a copy so reproduced and is a correct copy, and

(ii) the copy so reproduced is a copy to which paragraph (a) would apply if it were sought to have it received in evidence,

and

(c) in any other case, the copy has been examined with the original entry and is correct.

(6) Proof of the matters to which subsection (5) relates shall be given—

(a) in respect of paragraph (a) or (b)(ii) of that subsection, by some person who has been in charge of the reproduction concerned, and

(b) in respect of paragraph (b)(i) of that subsection, by some person who has examined the copy with the reproduction concerned, and

(c) in respect of paragraph (c) of that subsection, by some person who has examined the copy with the original entry concerned,

and may be given either orally or by an affidavit sworn before any commissioner or person authorised to take affidavits.”,

and

(k) in section 909(4)(a)—

- (i) in subparagraph (iv), by the substitution for “the date of acquisition, and” of “the date of acquisition,”,
- (ii) in subparagraph (v), by the substitution for “given to that person in respect of its acquisition.” of “given to that person in respect of its acquisition, and”, and
- (iii) by the insertion after subparagraph (v) of the following subparagraph:

“(vi) details of all policies of insurance (if any) whereby the risk of any kind of damage or injury, or the loss or depreciation of the asset is insured.”.

Power to obtain information from a Minister of the Government or public body.

208.—Section 910 of the Taxes Consolidation Act, 1997, is hereby amended by the substitution of the following subsection (1):

“(1) For the purposes of the assessment, charge, collection and recovery of any tax or duty placed under their care and management, the Revenue Commissioners may, by notice in writing, request any Minister of the Government or any body established by or under statute to provide them with such information in the possession of that Minister or body in relation to payments for any purposes made by that Minister or by that body, whether on that Minister’s or that body’s own behalf or on behalf of any other person, to such persons or classes of persons as the Revenue Commissioners may specify in the notice and a Minister of the Government or body of whom or of which such a request is made shall provide such information as may be so specified.”.

Electronic filing of tax returns.

209.—The Taxes Consolidation Act, 1997, is hereby amended by the insertion in Part 38 of the following Chapter after Chapter 5:

“Chapter 6

Electronic transmission of returns of income, profits, etc., and of other Revenue returns

Interpretation
(Chapter 6).

917D.—(1) In this Chapter—

‘the Acts’ means—

- (a) the statutes relating to the duties of excise and to the management of those duties,
- (b) the Tax Acts,

[1999.]

Finance Act, 1999.

[No. 2.]

- (c) the Capital Gains Tax Acts, Pt.7 S.209
- (d) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- (e) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act, and
- (f) the Stamp Act, 1891, and the enactments amending or extending that Act,

and any instruments made under any of the statutes and enactments referred to in paragraphs (a) to (f);

‘approved person’ shall be construed in accordance with section 917G;

‘approved transmission’ shall be construed in accordance with section 917H;

‘authorised person’ has the meaning assigned to it by section 917G(3)(b);

‘digital signature’ has the meaning assigned to it by section 917I;

‘hard copy’, in relation to information held electronically, means a printed out version of that information;

‘return’ means any return which is required—

- (a) to be made under section 172F, 172K, 172L, 258 or 525,
- (b) to be prepared and delivered under section 894, 895, 895 (as modified by section 896) or 951,
- (c) by any provision of the Acts (however expressed), to be prepared and delivered under a notice from the Revenue Commissioners or, as the case may be, a revenue officer requiring such a return to be prepared and delivered,
- (d) to be sent under Regulation 35 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960),
- (e) to be sent under Regulation 21 of the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 7 of 1971),

- (f) to be furnished under section 19 of the Value-Added Tax Act, 1972,
- (g) to be delivered under subsection (2) or (9) of section 36 of the Capital Acquisitions Tax Act, 1976,
- (h) to be delivered under section 36(8) of the Capital Acquisitions Tax Act, 1976,
- (i) to be presented under the Stamp Act, 1891, and the enactments amending or extending that Act, and
- (j) to be made under any of the statutes relating to the duties of excise and to the management of those duties;

‘revenue officer’ means the Collector-General, an inspector or other officer of the Revenue Commissioners (including an inspector or other officer who is authorised under any provision of the Acts (however expressed) to receive a return or to require a return to be prepared and delivered);

‘tax’ means any income tax, corporation tax, capital gains tax, value-added tax, gift tax, inheritance tax, excise duty or stamp duty.

(2) Any references in this Chapter to a return include references in any provision of the Acts to a statement, particulars, evidence or any other means whereby information is required or given, however expressed.

(3) Any references in this Chapter to the making of a return include references in any provision of the Acts to—

- (a) the preparing and delivering of a return;
- (b) the sending of a return;
- (c) the furnishing of a return or of particulars;
- (d) the delivering of a return;
- (e) the presentation of a return;
- (f) the rendering of a return;
- (g) the giving of particulars or of any information specified in any provision; and
- (h) any other means whereby a return is forwarded, however expressed.

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Application.

917E.—This Chapter shall apply to a Pt.7 S.209 return if—

- (a) the provision of the Acts under which the return is made is specified for the purpose of this Chapter by order made by the Revenue Commissioners, and
- (b) the return is required to be made after the day appointed by such order in relation to returns to be made under the provision so specified.

Electronic transmission of returns.

917F.—(1) Notwithstanding any other provision of the Acts, the obligation of any person to make a return to which this Chapter applies shall be treated as fulfilled by that person if information is transmitted electronically in compliance with that obligation, but only if—

- (a) the transmission is made by an approved person or an authorised person,
- (b) the transmission is an approved transmission,
- (c) the transmission bears the approved person's digital signature or such other means of electronic identification as may be specified or authorised by the Revenue Commissioners, and
- (d) the receipt of the transmission is acknowledged in accordance with section 917J.

(2) In subsection (1), the reference to the information which is required to be included in the return includes any requirement on a person to—

- (a) make any statement,
- (b) include any particulars, or
- (c) make or attach any claim.

(3) Where the obligation of any person to make a return to which this Chapter applies is treated as fulfilled in accordance with subsection (1) then, any provision of the Acts which—

- (a) requires that the return include or be accompanied by any description of declaration whatever by the person making the return,

apart from a declaration of an amount,

- (b) requires that the return be signed or accompanied by a certificate,
- (c) requires that the return be in writing,
- (d) authorises the return to be signed by a person acting under the authority of the person obliged to make the return,
- (e) authorises the Revenue Commissioners to prescribe the form of a return or which requires a return to be in or on any prescribed form, or
- (f) for the purposes of any claim for exemption or for any allowance, deduction or repayment of tax under the Acts which is required to be made with the return, authorises the Revenue Commissioners to prescribe the form of a claim,

shall not apply.

(4) Where the obligation of any person to make a return to which this Chapter applies is treated as fulfilled in accordance with subsection (1) then, the time at which any requirement under the Acts to make a return is fulfilled shall be the day on which the receipt of the information referred to in that subsection is acknowledged in accordance with section 917J.

(5) Where the obligation of any person to make a return to which this Chapter applies is treated as fulfilled in accordance with subsection (1), then, in a case where the transmission is made by—

- (a) an approved person on behalf of another person, or
- (b) an authorised person on behalf of another person (not being the person who authorised that authorised person),

a hard copy of the information to be transmitted shall be made and authenticated in accordance with section 917K.

- (6) (a) Where the obligation of any person to make a return to which this Chapter applies is treated as

fulfilled in accordance with sub-section (1) then, any requirement that—

- (i) the return or any claim which is to be made with or attached to the return should be accompanied by any document (in this subsection referred to as a 'supporting document') other than the return or the claim, and
- (ii) the supporting document be delivered with the return or the claim,

shall be treated as fulfilled by the person subject to the requirement if the person or the approved person referred to in subsection (1)(a) retains the document for inspection on request by a revenue officer.

- (b) Any person subject to the requirement referred to in paragraph (a) shall produce any supporting documents requested by a revenue officer within 30 days of that request.
- (c) The references in this subsection to a document include references to any accounts, certificate, evidence, receipts, reports or statements.

Approved persons.

917G.—(1) A person shall be an approved person for the purposes of this Chapter if the person is approved by the Revenue Commissioners for the purposes of transmitting electronically information which is required to be included in a return to which this Chapter applies (in this section referred to as 'the transmission') and complies with the provisions of this section and, in particular, with the conditions specified in subsection (3).

(2) A person seeking to be approved under this section shall make application in that behalf to the Revenue Commissioners in writing or by such other means as may be approved of by the Revenue Commissioners for the purposes of this section.

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

- (a) the applicant for approval under this section signs an undertaking to comply with the requirements

referred to in section 917H(2),
and

(b) the applicant signs an undertaking to permit, in addition to the applicant, only individuals duly authorised in writing by the applicant (each of whom is referred to in this section as an 'authorised person') to make a transmission.

(4) A person seeking to be approved under this section shall be given notice by the Revenue Commissioners of the grant or refusal by them of the approval and, in the case of a refusal, of the reason for the refusal.

(5) An approval under this section may be withdrawn by the Revenue Commissioners by notice in writing or by such other means as the Revenue Commissioners may decide with effect from such date as may be specified in the notice.

(6) (a) A notice withdrawing an approval under the section shall state the grounds for the withdrawal.

(b) No approval under this section may be withdrawn unless an approved person or an authorised person has failed to comply with one or more of the requirements referred to in section 917H(2).

(7) A person who is refused approval under this section or whose approval under this section is withdrawn may appeal to the Appeal Commissioners against the refusal or withdrawal.

(8) The appeal under subsection (7) shall be made by notice to the Revenue Commissioners before the end of the period of 30 days beginning with the day on which notice of the refusal or withdrawal was given to the person.

(9) The Appeal Commissioners shall hear and determine an appeal made to them under subsection (7) as if it were an appeal against an assessment to income tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.

Approved
transmissions.

917H.—(1) Where an approved person transmits electronically information which is required to be included in a return to which this Chapter applies the transmission shall not be an approved transmission unless it

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complies with the requirements of this Pt.7 S.209 section.

(2) The Revenue Commissioners shall notify an approved person of any requirements for the time being determined by them as being applicable to that person with respect to the manner in which information which is required to be included in a return to which this Chapter applies is to be transmitted electronically.

(3) The requirements referred to in subsection (2) include, in particular, requirements as to the software or type of software to be used to make a transmission.

Digital signatures.

917I.—(1) In this section—

‘asymmetric cryptosystem’ means an algorithm or series of algorithms which provide a secure key pair;

‘digital signature’ means the transformation of a message by an approved person or an authorised person using an approved asymmetric cryptosystem such that the Revenue Commissioners having possession of the message and the public key in respect of that approved person can accurately determine—

- (a) whether the transformation was created using the private key which corresponds to that public key, and
- (b) whether the message has been altered since the transformation was made;

‘key pair’ means a private key and its corresponding public key in an asymmetric cryptosystem such that the public key verifies a digital signature that the private key creates;

‘private key’ means the key of a key pair used by an approved person to create a digital signature;

‘public key’ means the key of a key pair used by the Revenue Commissioners to verify a digital signature;

‘message’ means the information referred to in section 917F(1).

(2) This section shall apply solely for the purposes of affixing an electronic signature to an electronic transmission of information which is required to be included in a return to which this Chapter applies and for no other purpose.

(3) The Revenue Commissioners, or a person or persons appointed in that behalf by the Revenue Commissioners, (in this section referred to as the 'certification authority') shall assign to each approved person a unique key pair.

(4) The certification authority shall ensure that it uses an accurate and reliable system to create a key pair.

(5) The certification authority shall ensure that an approved person is issued with the private key component of that person's key pair in a secure manner and subject to such conditions as it considers necessary to ensure that the key is not misused.

(6) A private key shall be used by an approved person or an authorised person solely for the purposes of affixing the digital signature referred to in section 917F(1)(c).

Acknowledgement of electronic transmissions.

917J.—For the purposes of this Chapter, where an electronic transmission of information which is required to be included in a return to which this Chapter applies is received by the Revenue Commissioners, the Revenue Commissioners shall send an electronic acknowledgement of receipt of that transmission to the person from whom it was received.

Hard copies.

917K.—(1) A hard copy shall be made in accordance with this subsection only if—

- (a) the hard copy is made under processes and procedures which are designed to ensure that the information contained in the hard copy shall only be the information to be transmitted in accordance with section 917F(1),
- (b) the hard copy is in a form approved by the Revenue Commissioners which is appropriate to the information so transmitted, and
- (c) the hard copy is authenticated in accordance with subsection (2).

(2) For the purposes of this Chapter, a hard copy made in accordance with subsection (1) shall be authenticated only if the hard copy is signed by the person who would have been required to make the declaration, sign the return or furnish the certificate, as the case may be, but for paragraph (a), (b) or (d) of section 917F(3).

Exercise of powers.

917L.—(1) This section shall apply where the obligation of any person to make a return

to which this Chapter applies is treated as fulfilled in accordance with section 917F(1).

(2) Where this section applies the Revenue Commissioners and a revenue officer shall have all the powers and duties in relation to the information contained in the transmission as they or that officer would have had if the information had been contained in a return made by post.

(3) Where this section applies the person whose obligation to make a return to which this Chapter applies is treated as fulfilled in accordance with section 917F(1) shall have all the rights and duties in relation to the information contained in the transmission as the person would have had if that information had been contained in a return made by post.

Proceedings.

917M.—(1) This section shall apply where the obligation of any person to make a return to which this Chapter applies is treated as fulfilled in accordance with section 917F(1).

(2) In this section, ‘proceedings’ means civil and criminal proceedings, and includes proceedings before the Appeal Commissioners or any other tribunal having jurisdiction by virtue of any provision of the Acts.

(3) Where this section applies a hard copy certified by a revenue officer to be a true copy of the information transmitted electronically in accordance with section 917F(1) shall be treated for the purposes of any proceedings in relation to which the certificate is given as if the hard copy—

- (a) were a return or, as the case may be, a claim made by post, and
- (b) contained any declaration, certificate or signature required by the Acts on such a return or, as the case may be, such a claim.

(4) For the purposes of any proceedings under the Acts, unless a Judge or any other person before whom proceedings are taken determines at the time of the proceedings that it is unjust in the circumstances to apply this provision, any rule of law restricting the admissibility or use of hearsay evidence shall not apply to a representation contained in a document recording information which has been transmitted in accordance with section 917F(1) in so far as the representation is a representation as to—

- (a) the information so transmitted,

- (b) the date on which, or the time at which, the information was so transmitted, or
- (c) the identity of the person by whom or on whose behalf the information was so transmitted.

Miscellaneous.

917N.—The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this Chapter to be performed or discharged by the Revenue Commissioners.”.

Amendment of section 884 (returns of profits) of Taxes Consolidation Act, 1997.

210.—Section 884 of the Taxes Consolidation Act, 1997, is hereby amended by the insertion of the following paragraph after paragraph (a) of subsection (2):

“(aa) such further particulars for the purposes of corporation tax as may be required by the notice or specified in the prescribed form in respect of the return,”.

Amendment of section 1078 (revenue offences) of Taxes Consolidation Act, 1997.

211.—Section 1078 of the Taxes Consolidation Act, 1997, is hereby amended—

(a) in subsection (2), by the insertion after paragraph (h) of the following paragraph:

“(hh) knowingly or wilfully falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, any books, records or other documents—

- (i) which the person has been given the opportunity to deliver, or as the case may be, to make available in accordance with section 900(3), or
- (ii) which the person has been required to deliver or, as the case may be, to make available in accordance with a notice served under section 900, 902, 906A or 907, or an order made under section 901, 902A or 908,”.

(b) in subsection (3)(b), by the substitution for “£10,000” of “£100,000”,

and

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

“(3A) Where a person has been convicted of an offence referred to in subparagraph (i), (ii) or (iv) of subsection (2)(g), then, if an application is made, or caused to be made to the court in that regard, the court may make an order requiring the person concerned to comply

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with any provision of the Acts relating to the requirements specified in the said subparagraph (i), (ii) or (iv), as the case may be.”. Pt.7 S.211

212.—Section 1094 of the Taxes Consolidation Act, 1997, is hereby amended by—

Amendment of section 1094 (tax clearance in relation to certain licences) of Taxes Consolidation Act, 1997.

(a) in subsection (1)—

(i) in the definition of “licence” by the substitution for paragraphs (h) and (j) of the following:

“(h) *section 101 of the Finance Act, 1999;*”,

and

(ii) by the insertion after the definition of “licence” of the following definition—

“‘market value’, in relation to any property, means the price which such property might reasonably be expected to fetch on a sale in the open market on the date on which the property is to be valued;”,

and

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

“(3A) Where—

(a) the first-mentioned person will be the beneficial holder of a licence due to commence on a specified date on foot of a certificate granted or to be granted under section 2(1) (as amended by section 23 of the Intoxicating Liquor Act, 1960) of the Licensing (Ireland) Act, 1902,

(b) the second-mentioned person was the beneficial holder of the last licence issued prior to the specified date in respect of the premises for which the certificate referred to in paragraph (a) was granted, and

(c) the acquisition of the premises by the said first-mentioned person was for a consideration of less than market value at the date of such acquisition,

then, subsection (3) shall apply as if—

(i) the reference to the year ending on that date were a reference to 5 years ending on that date, and

(ii) the reference to the activities conducted under the licence was a reference to the activities conducted by the second-mentioned person under the last licence held by the said person prior to the specified date.”.

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Discharge by
Minister for
Finance of liability
in respect of certain
borrowings by
Minister for
Agriculture and
Food.

213.—(1) In this section—

“the Minister” means the Minister for Finance;

“the relevant Minister” means the Minister for Agriculture and Food.

(2) The Minister may, after consultation with the relevant Minister, enter into an agreement with the person referred to hereafter in this subsection for the payment by the Minister to that person in such money (including money in a currency other than the currency of the State) and on such terms and conditions as to the manner, time of payment, release of security (if any), discharge of liability of the relevant Minister or otherwise as the Minister considers appropriate and are specified in the agreement, of amounts in respect of the principal of such moneys as stand borrowed from a person by the relevant Minister and not repaid to that person by him or her, together with an amount equal to the amount of the interest payable by the relevant Minister on such principal and any other sum that is or may become payable by the relevant Minister to the said person in respect of such borrowings.

(3) If an agreement referred to in *subsection (2)* is entered into, the Minister may pay to the person concerned such amounts as are specified in *subsection (2)* on the terms and conditions specified in the agreement.

(4) Neither the entering into an agreement by the Minister under *subsection (2)* nor the making by him or her of any payment under *subsection (3)* shall impose any liability on the relevant Minister to the Minister in respect of the agreement or payment.

(5) All moneys required by the Minister to meet amounts payable by him or her under or by virtue of this section shall be advanced out of the Central Fund or the growing produce thereof.

(6) The National Treasury Management Agency Act, 1990, is hereby amended in the First Schedule by—

(a) the deletion in paragraph (k) of “and”, and

(b) the addition of the following paragraph after paragraph (l):

“and

(m) *section 213 of the Finance Act, 1999.*”.

Amendment of
Industrial
Development Act,
1995.

214.—The Industrial Development Act, 1995, is hereby amended in subsection (3)(a) of section 10 (which section includes the power of the Minister for Enterprise, Trade and Employment to make grants, out of moneys provided by the Oireachtas, to County Enterprise Boards) by the substitution of “£200,000,000” for “£100,000,000”.

Capital Services
Redemption
Account.

215.—(1) In this section—

“the 1998 amending section” means section 130 of the Finance Act, 1998;

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“capital services” has the same meaning as it has in the principal section; Pt.7 S.215

“the forty-ninth additional annuity” means the sum charged on the Central Fund under *subsection (4)*;

“the 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 the 31st day of December, 1999, subsection (4) of the 1998 amending section shall have effect with the substitution of “£125,553,826” for “£120,289,536”.

(3) Subsection (6) of the 1998 amending section shall have effect with the substitution of “£95,050,986” for “£92,457,250”.

(4) A sum of £142,789,461 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 the 31st day of December, 1999.

(5) The forty-ninth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine.

(6) Any amount of the forty-ninth additional annuity, not exceeding £109,751,200 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the forty-ninth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

216.—All taxes and duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

Care and management of taxes and duties.

217.—(1) This Act may be cited as the Finance Act, 1999.

Short title, construction and commencement.

(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 1998, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1999.

(5) *Part 4* shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(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 together with the Custom 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 1999, and (so far as relating to stamp duty) shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act 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) *Part 1* shall, save as is otherwise expressly provided therein, apply as on and from the 6th day of April, 1999.

(10) In relation to *Part 3*:

(a) *sections 127 and 129* shall be deemed to have come into force and shall take effect as on and from the 1st day of March, 1999;

(b) *section 132* shall take effect as on and from the 1st day of May, 1999;

(c) *section 139* shall take effect as on and from the 1st day of July, 1999;

(d) *paragraph (b) of section 125, paragraph (b) of section 128, paragraph (b) of section 130, section 131 and section 134* shall take effect as on and from the 1st day of September, 1999;

(e) *section 122, paragraph (a) of section 128, section 133 and paragraph (b) of section 138* shall take effect as on and from the 1st day of January, 2000;

(f) the provisions of that Part, other than those specified in *paragraphs (a), (b), (c), (d) and (e)*, 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. Pt.7 S.217

SCHEDULE 1

Section 71.

Amendments Consequential on Change in Rate of Corporation Tax

The Taxes Consolidation Act, 1997, is hereby amended in accordance with the following provisions of this Schedule.

1. In section 448—

- (a) by the substitution of the following subsection for subsection (2):

“(2) Where a company which carries on a trade which consists of or includes the manufacture of goods claims and proves as respects a relevant accounting period that during that period any amount was receivable in respect of the sale in the course of the trade of goods, corporation tax payable by the company for that period, in so far as it is referable to the income from the sale of those goods, shall be reduced—

- (a) by eleven-sixteenths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 1998,
- (b) by nine-fourteenths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 1999,
- (c) by seven-twelfths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2000,
- (d) by one-half, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2001,
- (e) by three-eighths, in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2002, and
- (f) 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 2003 or any subsequent financial year,

and the corporation tax referable to the income from the sale of those goods shall be such an amount as bears to the part of the relevant corporation tax charged on profits which under section 26(3) are apportioned to the financial year in question the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period.”,

and

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

“(5A) Where any part of the profits of an accounting period of a company is charged to corporation tax in accordance with section 21A, then—

- (a) for the purposes of this section, the relevant corporation tax in relation to the accounting period shall be reduced by an amount determined by the formula—

$$\frac{R}{100} \times S$$

where—

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

S is an amount equal to so much of the profits of the company for the accounting period as are charged to tax in accordance with section 21A,

and

- (b) notwithstanding section 4(4)(b), the income of a company, referred to in the expression ‘total income brought into charge to corporation tax’, for the accounting period for the purposes of subsection (2) shall be the sum determined by section 4(4)(b) for that period reduced—

(i) in accordance with sections 454 and 455, and

(ii) by an amount equal to so much of the profits of the company for the accounting period as are charged to tax in accordance with section 21A.”.

2. In Schedule 32—

(a) in paragraph 5—

(i) in subparagraph (2)—

(I) for the definition of “S” in clause (i)(I) there shall be substituted the following:

“S is—

(A) as respects accounting periods beginning on or after the 1st day of January, 1998, and before the 1st day of January, 1999, 16/11, and

(B) as respects accounting periods beginning on or after the 1st day of January, 1999, and before the 6th day of April, 1999, 14/9,”

and

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- (II) for the definition of “S” in clause (ii) there shall be substituted the following: Sch.1

“S is—

- (I) as respects accounting periods beginning on or after the 1st day of January, 1998, and before the 1st day of January, 1999, 5/11, and
- (II) as respects accounting periods beginning on or after the 1st day of January, 1999, and before the 6th day of April, 1999, 5/9.”,

and

- (ii) in subparagraph (3), for clause (a) there shall be substituted the following clause:

“(a) For the purposes of subparagraph (2)—

- (i) where an accounting period begins before the 1st day of January, 1998, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1997, and another part beginning on the 1st day of January, 1998, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods,
- (ii) where an accounting period begins before the 1st day of January, 1999, and ends on or after that day but before the 6th day of April, 1999, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1998, and another part beginning on the 1st day of January, 1999, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods,
- (iii) where an accounting period begins before the 1st day of January, 1999, and ends on or after the 6th day of April, 1999, it shall be divided into three parts, one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 1998, another part beginning on the 1st day of January, 1999, and ending on the 5th day of April, 1999, and another part beginning on the 6th day of April, 1999, and ending on the day on which the accounting period ends, and each part shall be treated as if it were a separate accounting period, and

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- (iv) where an accounting period begins on or after the 1st day of January, 1999, and ends on or after the 6th day of April, 1999, it shall be divided into two parts, one part beginning on the day on which the accounting period begins and ending on the 5th day of April, 1999, and another part beginning on the 6th day of April, 1999, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.”,
- (b) paragraph 5 shall be deleted with effect from the 6th day of April, 1999,
- (c) in paragraph 6—
- (i) in subparagraph (2) for the definition of “S” in clause (ii) there shall be substituted the following:
- “S has the same meaning as in paragraph 5(2)(ii)”,
- and
- (ii) in subparagraph (3) for clause (a) there shall be substituted the following clause:
- “(a) Subparagraph (3)(a) of paragraph 5 shall apply for the purposes of subparagraph (2) as it applies for the purposes of subparagraph (2) of that paragraph.”,
- (d) paragraph 6 shall be deleted with effect from the 6th day of April, 1999,
- (e) in paragraph 16—
- (i) in subparagraph (3) for clauses (a) to (c) there shall be substituted the following clauses:
- “(a) as respects accounting periods beginning on or after the 1st day of January, 1998, and ending before the 1st day of January, 1999, 17 per cent,
- (b) as respects accounting periods beginning on or after the 1st day of January, 1999, and ending before the 1st day of January, 2000, 13 per cent,
- (c) as respects accounting periods beginning on or after the 1st day of January, 2000, and ending before the 1st day of January, 2001, 9 per cent,
- (d) as respects accounting periods beginning on or after the 1st day of January, 2001, and ending before the 1st day of January, 2002, 5 per cent, and
- (e) as respects accounting periods beginning on or after the 1st day of January, 2002, and ending

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before the 1st day of January, 2003, 1 per Sch.1 cent.”,

and

- (ii) for subparagraph (5) there shall be substituted the following subparagraphs:

“(5) Relief shall not be allowed under this paragraph against corporation tax payable by a company in respect of accounting periods beginning on or after the 1st day of January, 2003.

(6) For the purposes of this paragraph, where an accounting period begins before the 1st day of January of a financial year and ends on or after that day, it shall be divided into two parts, one part beginning on the day on which the accounting period begins and ending on the 31st day of December of the preceding financial year, and another part beginning on the 1st day of January of the financial year and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.”,

and

- (f) in paragraph 18—

- (i) in subparagraph (4)—

- (I) for the definition of “B” in clause (b) there shall be substituted the following:

“B is an amount determined by applying a rate equal to—

- (a) as respects accounting periods beginning on or after the 1st day of January, 1998, and ending before the 1st day of January, 1999, 17 per cent,
- (b) as respects accounting periods beginning on or after the 1st day of January, 1999, and ending before the 1st day of January, 2000, 13 per cent,
- (c) as respects accounting periods beginning on or after the 1st day of January, 2000, and ending before the 1st day of January, 2001, 9 per cent,
- (d) as respects accounting periods beginning on or after the 1st day of January, 2001, and ending before the 1st day of January, 2002, 5 per cent, and
- (e) as respects accounting periods beginning on or after the 1st day of January, 2002, and ending before the 1st day of January, 2003, 1 per cent,

to the amount of the company's income for the accounting period,"

- (II) for the definition of "D" in clause (b) there shall be substituted the following:

"D is an amount determined by applying a rate equal to—

- (a) as respects accounting periods beginning on or after the 1st day of January, 1998, and ending before the 1st day of January, 1999, 17 per cent,
- (b) as respects accounting periods beginning on or after the 1st day of January, 1999, and ending before the 1st day of January, 2000, 13 per cent,
- (c) as respects accounting periods beginning on or after the 1st day of January, 2000, and ending before the 1st day of January, 2001, 9 per cent,
- (d) as respects accounting periods beginning on or after the 1st day of January, 2001, and ending before the 1st day of January, 2002, 5 per cent, and
- (e) as respects accounting periods beginning on or after the 1st day of January, 2002, and ending before the 1st day of January, 2003, 1 per cent,

to the amount of the company's income for the accounting period as reduced by the appropriate amount.",

- (III) after clause (b) there shall be inserted the following clause:

"(bb) Subject to clause (c), relief for any accounting period beginning on or after the 1st day of January, 2003, shall be an amount determined by the formula—

$$A - B$$

where—

A is the amount of corporation tax which, apart from this paragraph and section 448, is chargeable for the accounting period, and

B is the amount of corporation tax which, apart from this paragraph and section 448, would be chargeable for the accounting period if the amount of the company's income for the accounting period were reduced by the appropriate amount.",

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(IV) in clause (c), for “Notwithstanding clause (b)” Sch.1 there shall be substituted “Notwithstanding clauses (b) and (bb)”,

and

(ii) in subparagraph (6) for clause (a) there shall be substituted the following clause:

“(a) Subparagraph (6) of paragraph 16 shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.”.

SCHEDULE 2

Section 96.

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
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

SCHEDULE 3

Section 106.

Repeals and Revocations relating to Excise Duty on Mineral Oil

PART 1

Repeals

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 31 of 1931.	Finance Act, 1931.	Section 5.
No. 43 of 1931.	Finance (Customs Duties) (No. 4) Act, 1931.	The whole Act, in so far as it is unrepealed.
No. 20 of 1932.	Finance Act, 1932.	Section 23, in so far as it is unrepealed, and section 36.
No. 15 of 1933.	Finance Act, 1933.	Section 7.
No. 7 of 1935.	Finance (Miscellaneous Provisions) Act, 1935.	Section 1, in so far as it is unrepealed.

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 28 of 1935.	Finance Act, 1935.	Section 21, in so far as it is unrepealed.
No. 31 of 1936.	Finance Act, 1936.	Section 22.
No. 18 of 1939.	Finance Act, 1939.	Sections 10 and 11.
No. 14 of 1940.	Finance Act, 1940.	Section 18.
No. 14 of 1941.	Finance Act, 1941.	Sections 13, 14 and 19.
No. 14 of 1942.	Finance Act, 1942.	Section 8.
No. 15 of 1946.	Finance Act, 1946.	Sections 10 and 11.
No. 12 of 1948.	Finance Act, 1948.	Sections 3 and 4.
No. 13 of 1949.	Finance Act, 1949.	Section 17.
No. 15 of 1951.	Finance Act, 1951.	Sections 7 to 9.
No. 14 of 1952.	Finance Act, 1952.	Sections 6 and 7.
No. 22 of 1956.	Finance Act, 1956.	Sections 10 and 11.
No. 20 of 1957.	Finance Act, 1957.	Sections 10 and 11.
No. 25 of 1958.	Finance Act, 1958.	Section 14.
No. 18 of 1959.	Finance Act, 1959.	Section 19.
No. 19 of 1960.	Finance Act, 1960.	Sections 18 and 20.
No. 15 of 1964.	Finance Act, 1964.	Sections 16, 19 and 20.
No. 22 of 1965.	Finance Act, 1965.	Section 14.
No. 17 of 1966.	Finance Act, 1966.	Section 10.
No. 33 of 1968.	Finance Act, 1968.	Section 20.
No. 21 of 1969.	Finance Act, 1969.	Section 36.
No. 14 of 1970.	Finance Act, 1970.	Sections 29 and 30.
No. 27 of 1974.	Finance Act, 1974.	Section 78.
No. 16 of 1976.	Finance Act, 1976.	Sections 40 to 43.
No. 14 of 1980.	Finance Act, 1980.	Section 70.
No. 16 of 1981.	Finance Act, 1981.	Section 35.
No. 28 of 1981.	Finance (No. 2) Act, 1981.	Section 6.
No. 14 of 1982.	Finance Act, 1982.	Section 66.
No. 15 of 1983.	Finance Act, 1983.	Sections 60 and 70.
No. 9 of 1984.	Finance Act, 1984.	Section 73.
No. 10 of 1985.	Finance Act, 1985.	Section 29.
No. 13 of 1986.	Finance Act, 1986.	Sections 65, 72 and 73.
No. 10 of 1987.	Finance Act, 1987.	Section 36.

Number and year (1)	Short title (2)	Extent of repeal (3)
No. 10 of 1988.	Customs and Excise (Miscellaneous Provisions) Act, 1988.	Section 11.
No. 12 of 1988.	Finance Act, 1988.	Section 56.
No. 10 of 1989.	Finance Act, 1989.	Sections 40 and 45.
No. 10 of 1990.	Finance Act, 1990.	Section 89.
No. 13 of 1991.	Finance Act, 1991.	Section 74.
No. 9 of 1992.	Finance Act, 1992.	Sections 150 and 158.
No. 28 of 1992.	Finance (No. 2) Act, 1992.	Subsections (1)(b) and (2) of section 25 and subsection (4) of section 26.
No. 13 of 1993.	Finance Act, 1993.	Sections 69 and 72 and subsections (5) and (6) of section 79.
No. 13 of 1994.	Finance Act, 1994.	Section 84.
No. 8 of 1995.	Finance Act, 1995.	Sections 99 and 116.
No. 9 of 1996.	Finance Act, 1996.	Sections 79 and 80.
No. 22 of 1997.	Finance Act, 1997.	Sections 82 to 84.
No. 3 of 1998.	Finance Act, 1998.	Sections 89 and 90.

PART 2
Revocations

Number and year (1)	Citation (2)	Extent of revocation (3)
S.I. No. 104 of 1959.	Imposition of Duties (No. 69) (Hydrocarbon Oils) (Excise Duties) Order, 1959.	The whole Order.
S.I. No. 219 of 1959.	Imposition of Duties (No. 84) (Hydrocarbon Oils) (Customs Duties) Order, 1959.	The whole Order.
S.I. No. 307 of 1975.	Imposition of Duties (No. 221) (Excise Duties) Order, 1975.	Paragraphs 11 and 12.
S.I. No. 279 of 1977.	Imposition of Duties (No. 232) (Hydrocarbon Oils) Order, 1977.	The whole Order.
S.I. No. 2 of 1978.	Imposition of Duties (No. 234) (Excise Duties on Hydrocarbon Oils and Beer) Order, 1978.	Paragraphs 3 to 6.
S.I. No. 367 of 1981.	Imposition of Duties (No. 255) (Hydrocarbon Oils) Order, 1981.	The whole Order.

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Number and year (1)	Citation (2)	Extent of revocation (3)
S.I. No. 404 of 1981.	Imposition of Duties (No. 256) (Excise Duty on Hydrocarbon Oils) Order, 1981.	The whole Order.
S.I. No. 9 of 1983.	Imposition of Duties (No. 261) (Excise Duties) Order, 1983.	Subparagraphs (1) to (4) of paragraph 8.
S.I. No. 85 of 1983.	Imposition of Duties (No. 264) (Hydrocarbons) Order, 1983.	The whole Order.
S.I. No. 126 of 1983.	Imposition of Duties (No. 265) (Excise Duty on Hydrocarbon Oils) Order, 1983.	The whole Order.
S.I. No. 3 of 1986.	Imposition of Duties (No. 281) (Hydrocarbons) Order, 1986.	The whole Order.
S.I. No. 19 of 1987.	Imposition of Duties (No. 285) (Excise Duties) Order, 1987.	Paragraph 5.
S.I. No. 394 of 1992.	European Communities (Customs and Excise) Regulations, 1992.	Regulations 21 to 24.

Section 111.

SCHEDULE 4

Rates of Excise Duty on Tobacco Products

Description of Product	Rate of Duty
Cigarettes	£66.76 per thousand together with an amount equal to 17.45 per cent of the price at which the cigarettes are sold by retail
Cigars	£101.334 per kilogram
Fine-cut tobacco for the rolling of cigarettes ...	£85.511 per kilogram
Other smoking tobacco	£70.302 per kilogram

Stamp Duties on Instruments

Heading

Duty

AGREEMENT or CONTRACT, accompanied with a deposit.

See MORTGAGE, etc.

AGREEMENT for a Lease, or for any letting.

See LEASE.

AGREEMENT for sale of property.

See CONVEYANCE or TRANSFER on sale.

ANNUITY—

Conveyance in consideration of.

See CONVEYANCE or TRANSFER on sale.

Purchase of.

See CONVEYANCE or TRANSFER on sale.

Creation of, by way of security.

See MORTGAGE, etc.

ASSIGNMENT.

By way of security, or of any security.

See MORTGAGE, etc.

On a sale or otherwise.

See CONVEYANCE or TRANSFER.

ASSURANCE.

See POLICY.

BILL OF EXCHANGE or PROMISSORY NOTE.

Where drawn on an account in the State ... 7p.

In any other case:

where drawn or made in the State ... 7p.

Exemptions.

(1) Draft or order drawn by any banker in the State on any other banker in the State, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers.

(2) Letter written by a banker in the State to any other banker in the State, directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made or to any person on such person's behalf.

(3) Letter of credit granted in the State, authorising drafts to be drawn out of the State payable in the State.

(4) Draft or order drawn by the Accountant of the Courts of Justice.

(5) Coupon or warrant for interest attached to and issued with any security, or with an agreement or memorandum for the renewal or extension of time for payment of a security.

(6) Coupon for interest on a marketable security being one of a set of coupons whether issued with the security or subsequently issued in a sheet.

(7) Bill drawn on any form supplied by the Commissioners for the purpose of remitting amounts of tax in accordance with Regulation 31(1) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960).

(8) Bill drawn on any form supplied by the Commissioners for the purpose of remitting amounts of turnover tax, wholesale tax, or value added tax.

(9) Bill drawn on any form supplied by the Commissioners for the purpose of remitting amounts of tax in accordance with Regulation 10 of the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971).

(10) Direct debits and standing orders.

(11) Bill drawn on an account outside the State.

(12) Bill drawn on or on behalf of the Minister for Finance by which payment in respect of prize bonds is effected.

BILL OF SALE—

Absolute.

See CONVEYANCE or TRANSFER on sale.

By way of security.

See MORTGAGE, etc.

BOND in relation to any annuity on the original creation and sale of that annuity.

See CONVEYANCE or TRANSFER on sale.

BOND, accompanied with a deposit of title deeds, for making a mortgage or other security on any estate or property comprised in the mortgage or other security.

See MORTGAGE, etc.

BOND, DECLARATION, or other DEED or WRITING for making redeemable any disposition apparently absolute, but intended only as a security.

See MORTGAGE, etc.

CHEQUE.

See BILL OF EXCHANGE.

CONTRACT.

See AGREEMENT.

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CONVEYANCE or TRANSFER on sale of any stocks or marketable securities

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1 per cent of the consideration 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 £.

Exemption.

Foreign loan security issued by or on behalf of a company or body of persons corporate or unincorporate formed or established in the State. For the purposes of this exemption a “foreign loan security” means a security issued outside the State in respect of a loan which is expressed in a currency other than the currency of the State and is neither offered for subscription in the State nor offered for subscription with a view to an offer for sale in the State of securities in respect of the loan.

CONVEYANCE or TRANSFER on sale of a policy of insurance or a policy of life insurance where the risk to which the policy relates is located in the State

0.1 per cent of the consideration 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 £.

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.

(1) Where the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £60,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or

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(b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £60,000:

for the consideration which is attributable to residential property Exempt.

(2) Where paragraph (1) does not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £100,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to residential property, or

(b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £100,000

... .. 3 per cent of the consideration which is attributable to residential property 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 £.

(3) Where paragraphs (1) and (2) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £170,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

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- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £170,000

... .. 4 per cent of the consideration which is attributable to residential property 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 £.

(4) Where paragraphs (1) to (3) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £250,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £250,000

... .. 5 per cent of the consideration which is attributable to residential property 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 £.

(5) Where paragraphs (1) to (4) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £500,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £500,000

7 per cent of the consideration which is attributable to residential property 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 £.

(6) Where paragraphs (1) to (5) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to residential property

9 per cent of the consideration which is attributable to residential property 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 £. Sch.5

(7) Where the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £5,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £5,000:

for the consideration which is attributable to property which is not residential property Exempt.

(8) Where paragraph (7) does not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £10,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £10,000

... .. 1 per cent of the consideration which is attributable to property which is not residential property but where the calculation results in an amount which is not a multiple

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of £1 the amount so calculated shall be rounded up to the nearest £.

(9) Where paragraphs (7) and (8) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £15,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £15,000

... .. 2 per cent of the consideration which is attributable to property which is not residential property 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 £.

(10) Where paragraphs (7) to (9) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £25,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value,

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of the consideration which is attributable to property which is not residential property exceeds £25,000

3 per cent of the consideration which is attributable to property which is not residential property 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 £.

(11) Where paragraphs (7) to (10) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £50,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £50,000

4 per cent of the consideration which is attributable to property which is not residential property 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 £.

(12) Where paragraphs (7) to (11) do not apply and the amount or value of the consideration for

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the sale which is attributable to property which is not residential property does not exceed £60,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £60,000

... .. 5 per cent of the consideration which is attributable to property which is not residential property 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 £.

(13) Where paragraphs (7) to (12) do not apply and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential prop-

erty 6 per cent of the consideration which is attributable to property which is not residential property 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 £.

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(14) Where paragraphs (7) to (13) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to property which is not residential property

9 per cent of the consideration which is attributable to property which is not residential property 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 £.

(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.

CONVEYANCE or TRANSFER by way of security of any property, or of any security.

See MORTGAGE, etc.

CONVEYANCE or TRANSFER of any kind not already described in this Schedule.

Where such instrument relates to—

- (a) immovable property situated in the State, or any right over or interest in such property, or
- (b) the stocks or marketable securities of a company having a register in the State... £10.

Exemption.

Instrument which contains a statement certifying that the instrument is a conveyance or transfer on any occasion, not being a sale or mortgage.

COUNTERPART.

See DUPLICATE.

COVENANT for securing the payment or repayment of money, or the transfer or retransfer of stock.

See MORTGAGE, etc.

COVENANT in relation to any annuity on the original creation and sale of that annuity.

See CONVEYANCE or TRANSFER on sale.

DEFEAZANCE. Instrument of defeazance of any conveyance, transfer or disposition, apparently absolute, but intended only as a security for money or stock.

See MORTGAGE, etc.

DEPOSIT of title deeds.

See MORTGAGE, etc.

DRAFT for money.

See BILL OF EXCHANGE.

DUPLICATE or COUNTERPART of any instrument chargeable with any duty.

Where such duty does not amount to £10 ... The same duty as the original instrument.

In any other case £10.

EQUITABLE MORTGAGE.

See MORTGAGE, etc.

EXCHANGE — instruments effecting.

In the case specified in section 104 of the Finance Act, 1993, see that section.

In any other case £10.

Exemption.

Instrument which contains a statement certifying that the instrument is an instrument effecting an

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exchange which is not an exchange which is specified in section 104 of the Finance Act, 1993.

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FURTHER CHARGE or FURTHER SECURITY.

See MORTGAGE, etc.

INSURANCE.

See POLICY.

LEASE.

(1) For any indefinite term or any term not exceeding 35 years of any dwellinghouse, part of a dwellinghouse, or apartment at a rent not exceeding £6,000 per annum Exempt.

(2) For any definite term less than a year of any lands, tenements or heritable subjects The same duty as a lease for a year at the rent reserved for the definite term.

(3) For any other definite term or for any indefinite term of any lands, tenements, or heritable subjects—

(a) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and—

(i) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £60,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered

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to be residential property, exceeds £60,000:

for the consideration which is attributable to residential property Exempt.

(ii) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £100,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £100,000 and clause (i) does not apply

3 per cent of the consideration which is attributable to residential property 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 £.

(iii) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property,

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does not exceed £170,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

- (I) wholly attributable to residential property, or
- (II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £170,000 and clauses (i) and (ii) do not apply

4 per cent of the consideration which is attributable to residential property 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 £.

- (iv) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £250,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

- (I) wholly attributable to residential property, or
- (II) partly attributable to residential property,

and that the transaction effected

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by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £250,000 and clauses (i) to (iii) do not apply

5 per cent of the consideration which is attributable to residential property 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 £.

(v) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £500,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £500,000 and clauses (i) to (iv) do not apply

7 per cent of the

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consideration
 which is
 attributable to
 residential
 property 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 £.

- (vi) the amount or value of such consideration is wholly or partly attributable to residential property and clauses (i) to (v) do not apply 9 per cent of the consideration which is attributable to residential property 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) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and—

- (i) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £5,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—
 - (I) wholly attributable to property which is not residential property, or
 - (II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a

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series of transactions, in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £5,000:

for the consideration which is attributable to property which is not residential property ... Exempt.

(ii) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £10,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

(I) wholly attributable to property which is not residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £10,000 and clause (i) does not apply

1 per cent of the consideration which is attributable to property which is not residential property 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 £.

(iii) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £15,000 and the lease contains a statement

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certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £15,000 and clauses (i) and (ii) do not apply

2 per cent of the consideration which is attributable to property which is not residential property 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 £.

- (iv) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £25,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the

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consideration (other than rent)
 which is attributable to property
 which is not residential property
 exceeds £25,000 and clauses (i) to
 (iii) do not apply

3 per cent of
 the
 consideration
 which is
 attributable to
 property which
 is not
 residential
 property 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 £.

(v) the amount or value of such con-
 sideration which is attributable to
 property which is not residential
 property does not exceed £50,000
 and the lease contains a statement
 certifying that the consideration
 for the lease is, as the case may
 be—

(I) wholly attributable to property
 which is not residential prop-
 erty, or

(II) partly attributable to residen-
 tial property,

and that the transaction effected
 by that instrument does not form
 part of a larger transaction or of a
 series of transactions in respect of
 which the amount or value, or the
 aggregate amount or value, of the
 consideration (other than rent)
 which is attributable to property
 which is not residential property
 exceeds £50,000 and clauses (i) to
 (iv) do not apply

4 per cent of
 the
 consideration
 which is
 attributable to
 property which
 is not
 residential
 property 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 £. Sch.5

(vi) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £60,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

(I) wholly attributable to property which is not residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £60,000 and clauses (i) to (v) do not apply

5 per cent of the consideration which is attributable to property which is not residential property 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 £.

(vii) the instrument contains a statement certifying that the consideration for the lease is, as the case may be—

(I) wholly attributable to property which is not residential property, or

(II) partly attributable to residential property,

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and clauses (i) to (vi) do not
 apply 6 per cent of
 the
 consideration
 which is
 attributable to
 property which
 is not
 residential
 property 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 £.

(viii) the amount or value of such con-
 sideration is wholly or partly
 attributable to property which is
 not residential property and
 clauses (i) to (vii) do not apply ... 9 per cent of
 the
 consideration
 which is
 attributable to
 property which
 is not
 residential
 property 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 £.

(c) where the consideration or any part of the
 consideration is any rent, in respect of
 such consideration, whether reserved
 as a yearly rent or otherwise:

(i) if the term does not exceed 35 years
 or is indefinite 1 per cent of
 the average
 annual rent 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 £.

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- (ii) if the term exceeds 35 years but does not exceed 100 years ... 6 per cent of the average annual rent 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 £. Sch.5
- (iii) if the term exceeds 100 years ... 12 per cent of the average annual rent 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 £.

(4) Lease made subsequently to, and in conformity with, an agreement duly stamped under the provisions of section 75 of the Stamp Act, 1891 ... £10.

(5) Of any other kind not already described under this heading which relates to immovable property situated in the State or to any right over or interest in such property ... £10.

LETTER OF CREDIT.

See BILL OF EXCHANGE.

MORTGAGE, BOND, DEBENTURE, COVENANT (except a marketable security) which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas.

(1) Being the only or principal or primary security (other than an equitable mortgage):

where the amount secured does not exceed £20,000 ... Exempt.

where the amount secured exceeds £20,000 ... 0.1 per cent of the amount secured and where the calculation results in an amount which is

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not a multiple of £1 the amount so calculated shall be rounded up to the nearest £ but in no case shall the duty so charged exceed £500.

(2) Being a collateral, or auxiliary, or additional, or substituted security (other than an equitable mortgage), or by way of further assurance for the above-mentioned purpose where the principal or primary security is not chargeable to duty or is duly stamped:

where the amount secured does not exceed £20,000 Exempt.

where the amount secured exceeds £20,000 ... £10.

(3) Being an equitable mortgage:

where the amount secured does not exceed £20,000 Exempt.

where the amount secured exceeds £20,000 ... 0.05 per cent of the amount secured and 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 £ but in no case shall the duty so charged exceed £500.

(4) Transfer, assignment or disposition of any such mortgage, bond, debenture, or covenant (except a marketable security) or of any money or stock secured by any such instrument or by any judgement:

where the amount secured does not exceed £20,000 Exempt.

where the amount secured exceeds £20,000 ... 0.05 per cent of the amount transferred, assigned, or disposed, exclusive of interest which is not in arrear

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and 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 £ and in no case shall the duty so charged exceed £500. Sch.5

where any further money is added to the money already secured The same duty as a principal security for such further money.

MORTGAGE OF STOCK or MARKETABLE SECURITY.

By deed. See MORTGAGE, etc.

ORDER for the payment of money.

See BILL OF EXCHANGE.

PARTITION or DIVISION — instruments effecting.

In the case specified in section 73, see that section.

POLICY OF LIFE INSURANCE made for a period exceeding 2 years where the risk to which the policy relates is located in the State.

Where the sum insured exceeds £50 0.1 per cent of the amount insured 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 £.

POLICY OF INSURANCE other than Life Insurance where the risk to which the policy relates is located in the State.

Where there is one premium only and the amount of that premium equals or exceeds £15 or, where there is more than one premium and the total amount payable in respect of that premium in any period of 12 months equals or exceeds £15 £1.

PROMISSORY NOTE.

See BILL OF EXCHANGE.

RELEASE or RENUNCIATION of any property, or of any right or interest in any property—

On a sale.

See CONVEYANCE or TRANSFER on sale.

In any other case £10.

Exemption.

Instrument which contains a statement certifying that the instrument is a release or renunciation of property, or of a right or interest in property, which is not a release or renunciation on a sale.

SHARE WARRANT issued under the provisions of the Companies Act, 1963, and **STOCK CERTIFICATE to bearer**, expressed in the currency of the State

A duty of an amount equal to 3 times the amount of the *ad valorem* stamp duty which would be chargeable on a deed transferring the share or shares or stock specified in the warrant or certificate if the consideration for the transfer were the nominal value of such share or shares or stock.

SURRENDER of any property, or of any right or interest in any property—

On a sale. See CONVEYANCE or TRANSFER.

In any other case £10.

Exemption.

Instrument which contains a statement certifying that the instrument is a surrender of property, or of a right or interest in property, not being a surrender on a sale.

TRANSFER.

See CONVEYANCE or TRANSFER.

GENERAL EXEMPTIONS

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(1) Transfers of shares in—

- (a) stocks or funds of the Government or Oireachtas,
- (b) any stock or other form of security to which section 39 of the Taxes Consolidation Act, 1997, applies,
- (c) any stock or other form of security to which section 40 of the Taxes Consolidation Act, 1997, applies, and
- (d) stocks or funds of the Government or Parliament of the late United Kingdom of Great Britain and Ireland which are registered in the books of the Bank of Ireland in Dublin.

(2) Instruments for the sale, transfer, or other disposition, either absolutely or by way of mortgage, or otherwise, of any ship or vessel or aircraft, or any part, interest, share, or property of or in any ship or vessel or aircraft.

(3) Testaments and testamentary instruments.

(4) Bonds given to sheriffs or other persons on the replevy of any goods or chattels, and assignments of such bonds.

(5) Instruments made by, to, or with the Commissioners of Public Works in Ireland.

SCHEDULE 6
Stamp Duties, etc.

Section 197.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
9 & 10 Vict., c.86.	Public Works (Ireland) (No. 2) Act, 1846.	Section 8.
33 & 34 Vict., c.112.	Glebe Loan (Ireland) Act, 1870.	Section 8.
54 & 55 Vict., c.38.	Stamp Duties Management Act, 1891.	In section 2(2) the words “England or” and “, or of the Court of Session sitting as the Court of the Exchequer in Scotland, as the case may require,”; and section 23.
54 & 55 Vict., c.39.	Stamp Act, 1891.	In section 14(1) the words “and of a further sum of one pound,”; in section 58(7) the words “or (3)”; in section 59(2) the words “except (where appropriate) with the fixed duty of £10”; section 59(5); in section 62 the proviso thereto; sections 104 to 106; section 121; and in section 122(1) in the Table to the definition of “accountable person” (inserted by the Finance Act, 1991) the word “SETTLEMENT” in column (1) and the words “The settlor” in column (2) and in the definition of “stock” the words “, and India promissory notes,”.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
57 & 58 Vict., c.30.	Finance Act, 1894.	Section 40.
61 & 62 Vict., c.46.	Revenue Act, 1898.	Sections 7(5), 11 and 12.
62 & 63 Vict., c.9.	Finance Act, 1899.	In section 6 the words "marketable security,"; "a marketable security transferable by delivery, or" and " , as the case may be,".
2 Edw. 7, c.7.	Finance Act, 1902.	Section 9.
7 Edw. 7, c.13.	Finance Act, 1907.	Section 7.
10 Edw. 7, c.8.	Finance (1909-10) Act, 1910.	Section 74(4).
No. 21 of 1923.	Finance Act, 1923.	Section 19.
No. 27 of 1924.	Finance Act, 1924.	Section 38(2) in so far as it relates to stamp duties.
No. 29 of 1924.	Railways Act, 1924.	Section 9(4).
No. 28 of 1925.	Finance Act, 1925.	Section 48.
No. 11 of 1928.	Finance Act, 1928.	Section 33.
No. 20 of 1930.	Finance Act, 1930.	Section 16.
No. 31 of 1932.	Bourn Vincent Memorial Park Act, 1932.	Section 8.
No. 16 of 1943.	Finance Act, 1943.	In section 15(2) the words " , and no certificate of indebtedness and no such instrument as aforesaid embodied or contained in a certificate of indebtedness shall be prevented from being given in evidence or being made available for any purpose merely by reason of the fact that no stamp duty had been paid in respect thereof"; and section 18.
No. 21 of 1944.	Transport Act, 1944.	Section 58.
No. 7 of 1945.	Minerals Company Act, 1945.	Section 12.
No. 2 of 1947.	Industrial Alcohol (Amendment) Act, 1947.	Section 11.
No. 12 of 1948.	Finance Act, 1948.	Section 11.
No. 12 of 1950.	Transport Act, 1950.	Section 67(2).
No. 7 of 1952.	Sea Fisheries Act, 1952.	Section 30.
No. 11 of 1953.	Grass Meal (Production) Act, 1953.	Section 4(2).
No. 13 of 1955.	Finance Act, 1955.	Section 17.
No. 47 of 1956.	Finance (Miscellaneous Provisions) Act, 1956.	Section 24.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 20 of 1958.	Great Northern Railway Act, 1958.	Section 4.
No. 10 of 1960.	Broadcasting Authority Act, 1960.	Section 32(12).
No. 21 of 1961.	Hospitals Federation and Amalgamation Act, 1961.	Section 19(3).
No. 15 of 1964.	Finance Act, 1964.	Section 23.
No. 22 of 1965.	Finance Act, 1965.	In paragraph (B) of section 31(1) the words “, nor shall any such duty be chargeable under section 12 of the Finance Act, 1895, on a copy of any Act of the Oireachtas, or on any instrument vesting, or relating to the vesting of, the undertaking or shares in the transferee company”.
No. 21 of 1966.	Housing Act, 1966.	Section 51.
No. 5 of 1967.	Industrial Training Act, 1967.	Section 49(10).
No. 7 of 1968.	Finance (Miscellaneous Provisions) Act, 1968.	Section 12.
No. 9 of 1969.	Nelson Pillar Act, 1969.	Section 3(3).
No. 21 of 1969.	Finance Act, 1969.	In section 49(3) the words “a conveyance, transfer or lease of a house by a local authority under the provisions of the Housing Act, 1966, or of’. In section 49 the whole of subsections (4) and (5).
No. 24 of 1971.	Central Bank Act, 1971.	Section 42(1).
No. 19 of 1973.	Finance Act, 1973.	Section 64(5); in section 69(2) the words “, without deduction of income tax,”; and the proviso to section 73.
No. 39 of 1976.	Wildlife Act, 1976.	Section 14(7).
No. 11 of 1979.	Finance Act, 1979.	Section 54.
No. 1 of 1980.	Fisheries Act, 1980.	Section 62.
No. 30 of 1981.	Fire Services Act, 1981.	Section 17(5).
No. 32 of 1981.	Youth Employment Agency Act, 1981.	Section 29.
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983.	Section 43.
No. 3 of 1986.	Canals Act, 1986.	Section 2(7).

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 31 of 1986.	Transport (Re-Organisation of Córas Iompair Éireann) Act, 1986.	In section 31 the words "Section 12 of the Finance Act, 1895, shall not apply to the vesting of any property or rights transferred by this Act and".
No. 13 of 1986.	Finance Act, 1986.	In section 95(2) the words "Notwithstanding the provisions of section 23 of the Finance Act, 1964,".
No. 26 of 1988.	Forestry Act, 1988.	Section 42.
No. 20 of 1990.	Shannon Navigation Act, 1990.	Section 5(7).
No. 26 of 1990.	Insurance Act, 1990.	Section 8(1).
No. 2 of 1991.	Marine Institute Act, 1991.	Section 20(4).
No. 9 of 1991.	Radiological Protection Act, 1991.	Section 47.
No. 9 of 1992.	Finance Act, 1992.	Section 205(10).
No. 13 of 1993.	Finance Act, 1993.	Section 101(2)(a).
No. 31 of 1993.	Local Government (Dublin) Act, 1993.	Paragraph 1(5) of the Second Schedule; in paragraph 9 of Part I of the Third Schedule the words "Section 12 of the Finance Act, 1895,"; and in paragraph 9 of Part II of the Third Schedule the words "Section 12 of the Finance Act, 1895 and".
No. 22 of 1994.	An Bord Bia Act, 1994.	Section 48(3).
No. 13 of 1994.	Finance Act, 1994.	Sections 109(2) and 110.
No. 29 of 1995.	Irish Medicines Board Act, 1995.	Section 30.
No. 32 of 1995.	Civil Legal Aid Act, 1995.	Section 14(4).
No. 9 of 1996.	Finance Act, 1996.	In section 106(1) the whole of subparagraphs (ii) and (iii) of paragraph (a).
No. 11 of 1996.	Harbours Act, 1996.	Section 98.
No. 27 of 1996.	Metrology Act, 1996.	Section 34(4).
No. 28 of 1996.	National Standards Authority of Ireland Act, 1996.	Section 36.
No. 7 of 1997.	Dublin Docklands Development Authority Act, 1997.	Sections 28(9) and 52.
No. 39 of 1997.	Taxes Consolidation Act, 1997.	Sections 707(3), 875 and 969.
No. 1 (Private) of 1969.	The Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969.	Section 11(5).