



**AN BILLE AIRGEADAIS, 1958.  
FINANCE BILL, 1958.**

*Mar a tugadh isteach.  
As introduced.*

**ARRANGEMENT OF SECTIONS.**

**PART I.**

**INCOME TAX.**

**Section.**

1. Income tax and sur-tax for the year 1958-59.
2. Market gardening.
3. Amendment of section 5 of Finance Act, 1929.
4. Evidence in certain cases.
5. Notices.
6. Information as to payments to employees.
7. Amendment of section 3 of Finance Act, 1925.
8. General rule as to tax on husbands and wives.
9. Consequences, as respects personal allowances, of exercise of option by husband or wife for separate assessment.
10. Collection from wife of tax assessed on husband attributable to her income.
11. Right of husband to disclaim liability for tax on deceased wife's income.
12. Construction of references to married women living with their husbands, and special provisions as to certain spouses geographically separated.

**PART II.**

**CUSTOMS AND EXCISE.**

13. Termination of customs duty on cinematograph films.
14. Hydrocarbon oils—amendment of section 10 (8) of Finance Act, 1957.
15. Motor car duty—amendment of section 12 (2) of Finance (Agreement with United Kingdom) Act, 1938.
16. Entertainments duty—amendment of section 10 (4) (c) of Finance Act, 1948.
17. Termination of additional excise duty on tobacco dealer's licence.
18. Further exemptions in respect of hawkers' licences.
19. Confirmation of Orders.

**PART III.**

**DEATH DUTIES.**

20. Restriction of section 7 (4) of Finance Act, 1894.  
[No. 9 of 1958.]

## PART IV.

### EXPENSES ALLOWANCES AND BENEFITS IN KIND : INCOME TAX AND SUR-TAX.

#### Section.

21. Expenses allowances, etc.
22. Benefits in kind to be taken into account.
23. Valuation of benefits in kind.
24. Meaning of "director," "employment" and "employment to which this Part of this Act applies."
25. Additional provisions as to information.
26. Application of *Part IV*.
27. Interpretation of previous provisions of *Part IV*.
28. Unincorporated bodies, partnerships and individuals.

## PART V.

### RETIREMENT AND OTHER BENEFITS FOR DIRECTORS AND EMPLOYEES : INCOME TAX AND SUR-TAX.

29. Interpretation (*Part V*).
30. Charge to tax in respect of provision for retirement or other benefits to directors and employees of bodies corporate.
31. Exemptions from charge to tax under *section 30*.
32. Approval of retirement benefits schemes.
33. Aggregation and severance of schemes.
34. Certain amounts to be deemed to be income.
35. Application of Rule 21 of General Rules to certain payments.
36. Allowance of contributions as deductions, etc.
37. Delivery of particulars of retirement benefits schemes, etc.

## PART VI.

### RETIREMENT ANNUITIES : INCOME TAX AND SUR-TAX.

38. Retirement annuities (relief for premiums, and earned income relief).
39. Nature and amount of relief for qualifying premiums.
40. Taxation of assurance companies doing annuity business.
41. Supplementary provisions for *Part VI*.

## PART VII.

### RELIEF FROM DOUBLE TAXATION : INCOME TAX, SUR-TAX, CORPORATION PROFITS TAX AND DEATH DUTIES.

42. Agreements for relief from double taxation of income.
43. Apportionments.
44. Agreements for relief from double death duties.
45. Regulations.
46. Disclosure of information.
47. Supplementary.
48. Amendment of section 15 of Finance Act, 1951.

## PART VIII.

### RECOVERY OF TAXES AND AMENDMENT OF FINANCE (MISCELLANEOUS PROVISIONS) ACT, 1956 : INCOME TAX, SUR-TAX AND CORPORATION PROFITS TAX.

#### Section.

49. Proceedings in the High Court in respect of taxes.
50. Extension of section 7 of Finance Act, 1923.
51. Amendment of Finance (Miscellaneous Provisions) Act, 1956.

## PART IX.

### STAMP DUTIES.

52. Agreements as to stamp duty on certain instruments.
53. Termination of stamp duty on certain receipts.
54. Termination of stamp duty on certain instruments.
55. Termination of stamp duty on certain bonds.

## PART X.

### MISCELLANEOUS AND GENERAL.

56. Capital Services Redemption Account.
57. Termination of payments into the Capital Fund.
58. Holding and investment of moneys of Post Office Savings Bank.
59. Investment of moneys of Savings Certificates Reserve Fund.
60. Expenses incurred in connection with management of prize bonds.
61. Repeals.
62. Care and management of taxes and duties.
63. Short title, construction and commencement.

## FIRST SCHEDULE.

### RETIREMENT ANNUITIES (ADJUSTMENTS OF LIMIT ON QUALIFYING PREMIUMS).

## SECOND SCHEDULE.

### PROVISIONS AS TO RELIEF FROM INCOME TAX (INCLUDING SUR-TAX) AND CORPORATION PROFITS TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.

## THIRD SCHEDULE.

### ENACTMENTS REPEALED.



AN BILLE AIRGEADAIS, 1958.  
FINANCE BILL, 1958.

# BILL

*entitled*

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.

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BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

## PART I.

### INCOME TAX.

Income tax and  
sur-tax for the  
year 1958-59.

1.—(1) Income tax shall be charged for the year beginning on  
the 6th day of April, 1958, at the rate of seven shillings and sixpence  
in the pound.

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(2) Sur-tax for the year beginning on the 6th day of April, 1958,  
shall be charged in respect of the income of any individual the  
total of which from all sources exceeds one thousand five hundred  
pounds and shall be so charged at the same rates as those at which  
it is charged for the year beginning on the 6th day of April, 1957.

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(3) The several statutory and other provisions which were in  
force on the 5th day of April, 1958, in relation to income tax and  
surtax shall, subject to the provisions of this Act, have effect in  
relation to the income tax and sur-tax to be charged as aforesaid for  
the year beginning on the 6th day of April, 1958.

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Market  
gardening.

2.—(1) In this section “market garden land” means land in the  
State occupied as a nursery or garden for the sale of the produce  
(other than land used for the growth of hops) and “market garden-  
ing” shall be construed accordingly.

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(2) Notwithstanding anything in Schedule B, or in the Rules  
applicable thereto, market gardening shall, for all the purposes of  
the Income Tax Acts in relation to the person by whom it is carried  
on, be treated as a trade and—

(a) the profits or gains thereof shall be charged under Case I  
of Schedule D, and

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(b) income tax shall not be charged under Schedule B in  
respect of the occupation of market garden land,

but where land is market garden land for part only of the year of  
assessment, tax shall be charged under Schedule B on that land  
for that year on so much of the assessable value of that land as  
bears to that value the same proportion as the remainder of that  
year bears to one year.

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(3) Where part of property valued under the Valuation Acts as a unit is market garden land—

- 5 (a) the annual value of the market garden land, for the purposes of Rule 5 of the Rules applicable to Cases I and II of Schedule D, shall be arrived at by apportionment of the rateable valuation of the property,
- 10 (b) the assessable value for the purposes of any assessment under Schedule B in respect of the remainder of the property shall be arrived at by apportionment of the amount which would have been the assessable value of the property, for the purposes of Schedule B, if no part thereof had been market garden land, and
- 15 (c) any apportionment required by this subsection shall be made by the inspector of taxes according to the best of his knowledge and judgment.

(4) An apportionment made under *paragraph (c) of subsection (3)* of this section may be amended by the Special Commissioners, or by the Circuit Judge, on the hearing, or the rehearing, of an appeal against an assessment made on the basis of the apportionment, but, 20 on the hearing, or the rehearing, of any such appeal, a certificate of the Commissioner of Valuation tendered by either party to the appeal and certifying, as regards property valued under the Valuation Acts as a unit, the amount of the rateable valuation of the property attributable to any part of the property, shall be conclusive as to the amount so attributable. 25

(5) Where, for any year of assessment, tax under Case I of Schedule D in respect of the profits or gains of market gardening is chargeable on, or by reference to, the amount of the profits or gains of a year or period falling wholly or partly before the 6th day 30 of April, 1958, that amount shall be computed as if *subsection (1)* of this section had had effect for the whole of that year or period.

(6) Section 39 of the Income Tax Act, 1918, and section 30 of the Finance Act, 1921, shall, notwithstanding anything in this section, be construed and have effect as if any tax chargeable, by virtue of 35 this section, under Schedule D were chargeable under Schedule B.

3.—The following subsections shall, with effect as from the commencement of section 5 of the Finance Act, 1929 (No. 32 of 1929), be substituted for subsections (2) and (3) of that section :—

Amendment of  
section 5 of  
Finance Act, 1929.

- 40 “ (2) (a) The Special Commissioners shall from time to time appoint times and places for the hearing of appeals against assessments and the Clerk to the Special Commissioners shall give notice of such times and places to the inspector of taxes or such other officer as aforesaid.
- 45 (b) The inspector of taxes or such other officer as aforesaid shall give notice in writing to each person who has given notice of appeal of the time and place appointed for the hearing of his appeal, but—
- 50 (i) notice under this paragraph shall not be given in a case in which *paragraph (b) of subsection (3)* of this section has effect either consequent upon an agreement referred to in that paragraph or consequent upon a notice referred to in *paragraph (d)* of that subsection, and
- 55 (ii) in a case in which it appears to the inspector or other officer that an appeal may be settled by agreement under *subsection (3)* of this section, he may refrain from giving notice under this paragraph or may by notice in writing withdraw a notice already given.

- (3) (a) This subsection applies to any assessment in respect of which notice of appeal has been given, not being an assessment the appeal against which has been determined by the Special Commissioners or which has become final and conclusive under *subsection (6)* of this section. 5
- (b) Where, in relation to an assessment to which this subsection applies, the inspector of taxes or such other officer as aforesaid and the appellant come to an agreement, whether in writing or otherwise, that the assessment is to stand good, is to be amended in a particular manner or is to be discharged or cancelled, the inspector or other officer shall give effect to the agreement and thereupon, if the agreement is that the assessment is to stand good or is to be amended, the assessment or the amended assessment, as the case may be, shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given. 10 15
- (c) An agreement which is not in writing shall be deemed not to be an agreement for the purposes of *paragraph (b)* of this subsection unless— 20
- (i) the fact that an agreement was come to, and the terms agreed upon, are confirmed by notice in writing given by the inspector of taxes or such other officer as aforesaid to the appellant or by the appellant to the inspector or other officer, and 25
- (ii) twenty-one days have elapsed since the giving of that notice without the person to whom it was given giving notice in writing to the person by whom it was given that he desires to repudiate or withdraw from the agreement. 30
- (d) Where an appellant gives notice in writing to the inspector of taxes or such other officer as aforesaid that he desires not to proceed with his appeal against an assessment to which this subsection applies, *paragraph (b)* of this subsection shall have effect as if the appellant and the inspector or other officer had, on the appellant's notice being received, come to an agreement in writing that the assessment should stand good. 35
- (e) The references in this subsection to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal." 40

Evidence in  
certain cases.

4.—(1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in *subsection (2)* of this section by reason only that it has been drawn to his attention that— 45

- (a) in relation to income tax or sur-tax, the Revenue Commissioners may accept pecuniary settlements instead of instituting proceedings, and 50
- (b) though no undertaking can be given as to whether or not the Revenue Commissioners will accept such a settlement in the case of any particular person, it is the practice of the Revenue Commissioners to be influenced by the fact that a person has made a full confession of any fraud or default to which he has been a party, and has given full facilities for investigation, 55

and that he was or may have been induced thereby to make the statements or produce the documents. 60

(2) The proceedings referred to in *subsection (1)* of this section are :

- (a) any criminal proceedings against the person in question for any form of fraud or wilful default in connection with or in relation to income tax or sur-tax; and
- (b) any proceedings against him for the recovery of any sum due from him, whether by way of tax, fine, forfeiture or penalty, in connection with or in relation to income tax or sur-tax.

5.—(1) Any notice which under the Income Tax Acts is authorised or required to be given by the Revenue Commissioners or an inspector of taxes or other officer of the Revenue Commissioners may be served by post.

(2) Any notice which under the Income Tax Acts is authorised or required to be given by the Revenue Commissioners may be signed and given by an officer of the Revenue Commissioners authorised by them for the purpose of giving notices of the class to which the notice belongs and, if so signed and given, shall be as valid and effectual as if signed under the hands of the Revenue Commissioners and given by them.

(3) *Prima facie* evidence of any notice given under the Income Tax Acts by the Revenue Commissioners or an inspector of taxes or other officer of the Revenue Commissioners may be given in any proceedings by production of a document purporting to be a copy of the 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, if it is signed, the signatures or signature or that the persons or person signing and giving it were or was authorised so to do.

(4) This section shall have effect notwithstanding any other provision of the Income Tax Acts.

(5) This section shall come into operation on the passing of this Act, but as well as applying to notices given after such passing, it shall also apply, and be deemed always to have applied, to notices given before such passing.

6.—(1) In section 105 of the Income Tax Act, 1918, the references to payments made to persons in respect of their employment and to the remuneration of persons in their employment shall be deemed to include references—

- (a) to any payments made after the 5th day of April, 1957, to employed persons in respect of expenses,
- (b) to any payments made after that day on behalf of employed persons and not repaid, and
- (c) to any payments made after that day to the employees in a trade or business for services rendered in connection with the trade or business, whether the services were rendered in the course of their employment or not.

(2) The reference in paragraph (a) of subsection (1) of this section to payments made to employed persons in respect of expenses includes a reference to sums put at the disposal of an employed person and paid away by him.

7.—Section 3 of the Finance Act, 1925 (No. 28 of 1925), is hereby amended by the substitution in subsection (2) (inserted by section 7 of the Finance Act, 1954 (No. 22 of 1954)) of "Army Pensions Acts, 1923 to 1957, or those Acts and any subsequent Act together with which those Acts may be cited" for "Army Pensions Acts, 1923 to 1953".

Information as to payment to employees.

Amendment of section 3 of Finance Act, 1925.

General rule as to  
tax on husbands  
and wives.

8.—(1) Subject to sections 9, 10, 11, and 12 of this Act, a woman's income chargeable to tax shall, so far as it is income for a year of assessment or part of a year of assessment during which she is a married woman living with her husband, be deemed for income tax (including sur-tax) purposes to be his income and not to be her income, but the question whether there is any income of hers chargeable to tax for any year of assessment and, if so, what is to be taken to be the amount thereof for tax purposes shall not be affected by the provisions of this subsection. 5

(2) Any tax falling to be assessed in respect of any income which, under subsection (1) of this section, is to be deemed to be the income of a woman's husband shall, instead of being assessed on her, or on her trustee, guardian, curator or committee, or on her executors or administrators, be assessable on him or, in the appropriate cases, on his trustee, guardian, curator or committee, or on his executors or administrators, but nothing in this subsection shall affect the operation of Rule 10 of the Rules applicable to Cases I and II of Schedule D. 10 15

(3) References in this section to a woman's income include references to any sum which, apart from this section, would fall to be included in computing her total income, and this subsection has effect in relation to any such sum notwithstanding that some enactment (including, except so far as the contrary is expressly provided, an enactment passed after the passing of this Act) requires that that sum should not be treated as income of any person other than her. 20 25

(4) This section has effect subject to Rule 17 of the General Rules and section 8 of the Income Tax Act, 1918.

Consequences, as  
respects personal  
allowances, of  
exercise of option  
by husband or  
wife for separate  
assessment.

9.—(1) This section shall have effect as respects personal reliefs where, by virtue of an application under Rule 17 of the General Rules, income tax for any year is to be assessable and chargeable on the incomes of a husband and a wife as if they were not married. 30

(2) The total relief from tax given to the husband and the wife by way of personal reliefs shall be the same as if the application had not had effect with respect to the year and, subject to subsection (3) of this section, the benefit flowing from the personal reliefs may be given either by way of reduction of the amount of the tax to be paid, or by repayment of any excess of tax which has been paid, or by both of these means, as the case requires, and shall be allocated to the husband and the wife— 35

(a) so far as it flows from relief under section 32 of the Income Tax Act, 1918, to the husband or the wife according as he or she made the payment giving rise to the relief, 40

(b) so far as it flows from relief under section 16 of the Finance Act, 1920, in proportion to the amounts of their respective earned incomes, 45

(c) so far as it flows from relief in respect of a dependent relative under section 22 of the Finance Act, 1920, or relief in respect of a child under subsection (2) of section 21 of that Act, to the husband or the wife according as he or she maintains the relative or child, 50

(d) so far as it flows from relief under section 4 of the Finance Act, 1951 (No. 15 of 1951), in proportion to the amounts of their respective total incomes, and

(e) as to the balance, in proportion to the amounts of their respective assessable incomes. 55

(3) Where the amount of relief allocated to the husband under subsection (2) of this section exceeds the income tax chargeable on the income of the husband for the year of assessment, the balance shall be applied to reduce the income tax chargeable on the income of the wife for that year, and where the amount of relief allocated 60

to the wife under that subsection exceeds the income tax chargeable on her income for the year of assessment, the balance shall be applied to reduce the income tax chargeable on the income of the husband for that year.

- 5 (4) Returns of the total incomes of the husband and the wife may be made for the purposes of this section either by the husband or by the wife but, if the Revenue Commissioners are not satisfied with any such return, they may obtain a return from the wife or the husband, as the case may be.
- 10 (5) The Revenue Commissioners may by notice require returns for the purposes of this section to be made at any time, and the provisions of the Income Tax Acts relating to penalties for neglect or refusal to deliver, or for delay in delivering, true and correct statements of profits or gains shall, with the necessary modifications,
- 15 apply in the case of the neglect or refusal to make, or wilful delay in making, any such return.

- (6) In this section "personal reliefs" means any relief under section 32 of the Income Tax Act, 1918, under sections 16, 18, 19, 20, 21, 22, and 23 of the Finance Act, 1920, under section 4 of the
- 20 Finance Act, 1951 (No. 15 of 1951), or under section 3 of the Finance Act, 1954 (No. 22 of 1954).

10.—(1) Where—

- (a) an assessment to income tax or sur-tax (hereafter in this section referred to as the original assessment) has been
- 25 made for the year beginning on the 6th day of April, 1958, or any subsequent year of assessment on a man, or on a man's trustee, guardian, curator or committee, or on a man's executors or administrators,
- (b) the Revenue Commissioners, in the case of an assessment to income tax, or the Special Commissioners, in the case of an assessment to sur-tax, are of opinion that, if an application for separate assessment under Rule 17 of the General Rules or under section 8 of the Income Tax Act, 1918, had been in force with respect to that year of
- 30 assessment, an assessment in respect of, or of part of, the same income would have fallen to be made on, or on the trustee, guardian, curator or committee of, or on the executors or administrators of, a woman who is the said man's wife or was his wife in that year of
- 35 assessment, and
- 40 (c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of twenty-eight days from the time when it became due,
- the Revenue Commissioners, or, as the case may be, the Special
- 45 Commissioners, may give to her, or, if she is dead, to her executors or administrators, or, if such an assessment as is referred to in paragraph (b) of this subsection could, in the event therein referred to, have been made on her trustee, guardian, curator, or committee, to her or to her trustee, guardian, curator, or committee, a notice—
- 50 (i) stating particulars of the original assessment and of the amount remaining unpaid thereunder, and
- (ii) stating particulars, to the best of their judgment, of the assessment which would have fallen to be made as aforesaid,
- 55 and requiring the person to whom the notice is given to pay the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.

Collection from wife of tax assessed on husband attributable to her income.

(2) The same consequences as respects—

(a) the imposition of a liability to pay, and the recovery of, the tax,

(b) priority for the tax in bankruptcy or in the administration of the estate of a deceased person, 5

(c) appeals to the Special Commissioners, the rehearing of such appeals and the stating of cases for the opinion of the High Court, and

(d) the ultimate incidence of the liability imposed,

shall follow on the giving of a notice under *subsection (1)* of this section to a woman, or to her trustee, guardian, curator or committee, or to her executors or administrators, as would have followed on the making on her, or on her trustee, guardian, curator or committee, or on her executors or administrators, as the case may be, of such an assessment as is referred to in *paragraph (b)* of *subsection (1)* of this section, being an assessment which— 10

(i) was made on the day of the giving of the notice,

(ii) charged the same amount of tax as is required to be paid by the notice,

(iii) fell to be made and was made by the authority who made the original assessment, and 20

(iv) was made by that authority to the best of his or their judgment,

and the provisions of the Income Tax Acts relating to the matters specified in *paragraphs (a) to (d)* of this subsection shall, with the necessary adaptations, have effect accordingly. 25

(3) Where a notice is given under *subsection (1)* of this section, tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment.

(4) Where the amount payable under a notice given under *subsection (1)* of this section is reduced as the result of an appeal or of the stating of a case for the opinion of the High Court— 30

(a) the Revenue Commissioners shall, if, in the light of that result, they are satisfied that the original assessment was excessive, cause such relief to be given by way of repayment or otherwise as appears to them to be just; but 35

(b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment. 40

(5) The Revenue Commissioners, the Special Commissioners and the inspector of taxes or other proper officer shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under *subsection (1)* of this section as they would have had with a view to the making of, and otherwise in connection with, such an assessment as is referred to in *paragraph (b)* of *subsection (1)* of this section if the necessary conditions had been fulfilled for the making of such an assessment. 45

Right of husband to disclaim liability for tax on deceased wife's income.

11.—(1) Where a woman dies who, at any time before her death, was a married woman living with her husband, he or, if he is dead, his executors or administrators may, not later than two months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her executors or administrators, at any later date, give to her executors or administrators and to the inspector of taxes a notice in writing declaring that, to the extent permitted by this section, he or they disclaims or disclaim responsibility for unpaid income tax or unpaid sur-tax in respect of all income of hers for any year of assessment or part of a year of assessment, being a year of assessment or part of a year of assessment which began on or after the 6th day of April, 1958, and during which he was her husband and she was living with him. 50 55 60

(2) A notice given pursuant to this section to the inspector of taxes shall be deemed not to be a valid notice unless it specifies the names and addresses of the woman's executors or administrators.

(3) Where a notice under this section has been given to a woman's  
5 executors or administrators and to the inspector of taxes—

(a) it shall be the duty of the Revenue Commissioners and the Special Commissioners to exercise such powers as they may then or thereafter be entitled to exercise under  
10 *section 10* of this Act in connection with any assessment made on or before the date when the giving of the said notice is completed, being an assessment in respect of any of the income to which the said notice relates, and

(b) the assessments (if any), whether to income tax or to sur-  
15 tax, which may be made after that date shall, in all respects and in particular as respects the persons assessable and the tax payable, be the assessments which would have fallen to be made if—

(i) an application for separate assessment under Rule  
20 17 of the General Rules or under *section 8* of the Income Tax Act, 1918, as the case may be, had been in force in respect of the year of assessment in question, and

(ii) all assessments previously made had been made accordingly.

25 (4) In this section "the inspector of taxes" means, in relation to a notice, any inspector of taxes who might reasonably be considered by the person giving the notice to be likely to be concerned with the subject-matter thereof or who declares himself ready to accept the notice.

30 (5) Any notice under this section may be served by post.

12.—(1) A married woman shall be treated for income tax purposes as living with her husband unless either—

(a) they are separated under an order of a court of competent jurisdiction or by deed of separation, or

35 (b) they are in fact separated in such circumstances that the separation is likely to be permanent.

Construction of references to married women living with their husbands, and special provisions as to certain spouses geographically separated.

(2) Where a married woman is living with her husband and either—

40 (a) one of them is, and one of them is not, resident in the State for a year of assessment, or

(b) both of them are resident in the State for a year of assessment but one of them is, and one of them is not, absent from the State throughout that year,

45 the same consequences shall follow for income tax (including sur-tax) purposes as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent.

(3) Where *subsection (2)* of this section applies and the net aggregate amount of income tax (including sur-tax) falling to be  
50 borne by the husband and the wife for the year is greater than it would have been but for the provisions of that subsection, the Revenue Commissioners shall cause such relief to be given (by the reduction of such assessments on the husband or the wife or the repayment of such tax paid (by deduction or otherwise) by the  
55 husband or the wife as the Revenue Commissioners may direct) as will reduce the said net aggregate amount by the amount of the excess.

## PART II.

### CUSTOMS AND EXCISE.

Termination of  
customs duty on  
cinematograph  
films.

**13.**—The duty of customs on cinematograph films imposed by section 17 of the Finance Act, 1932 (No. 20 of 1932), shall not be charged or levied on any article imported on or after the 24th day of April, 1958. 5

Hydrocarbon oils  
—amendment of  
section 10 (8) of  
Finance Act, 1957.

**14.**—Subsection (8) of section 10 of the Finance Act, 1957 (No. 20 of 1957), is hereby amended—

(a) by the substitution of “ a person, who carries on a passenger road service within the meaning of section 2 of the Road Transport Act, 1932 (No. 2 of 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 ” for “ the licensee under a passenger licence granted under section 11 of the Road Transport Act, 1932 (No. 2 of 1932) ”, 10

(b) by the substitution of “ the passenger road service ” for “ a passenger road service in respect of which the licence was granted ”, and 15 20

(c) by the substitution of “ him ” for “ the licensee ”.

Motor car duty—  
amendment of  
section 12 (2) of  
Finance (Agree-  
ment with United  
Kingdom) Act,  
1938.

**15.**—Subsection (2) of section 12 of the Finance (Agreement with United Kingdom) Act, 1938 (No. 12 of 1938), is hereby amended by the deletion of paragraph (f).

Entertainments  
duty—amendment  
of section 10 (4)  
(c) of Finance Act,  
1948.

**16.**—Paragraph (c) of subsection (4) of section 10 of the Finance Act, 1948 (No. 12 of 1948), is hereby amended, as respects entertainments held on or after the 1st day of August, 1958, by the substitution of “ fifty per cent.” for “ thirty per cent.” 25

Termination of  
additional excise  
duty on tobacco  
dealer's licence.

**17.**—The additional duty of excise on a tobacco dealer's licence imposed by section 26 of the Finance Act, 1932 (No. 20 of 1932), shall not be charged or levied on any licence the period of validity of which commences on or after the 1st day of July, 1958. 30

Further  
exemptions in  
respect of  
hawkers' licences.

**18.**—In addition to the persons specified in subsection (3) of section 12 of the Finance Act, 1930 (No. 20 of 1930), and section 24 of the Finance Act, 1931 (No. 31 of 1931), it shall not be necessary for a licence to be taken out under the Hawkers Act, 1888, by any person selling hydrocarbon oil or lubricating grease and no other goods. 35

Confirmation of  
Orders.

**19.**—The Imposition of Duties (No. 5) (Special Import Levies and Miscellaneous Customs Duties) (Amendment) Order, 1957 (S.I. No. 163 of 1957), the Imposition of Duties (No. 11) (Roofing Slates) Order, 1957 (S.I. No. 275 of 1957), the Imposition of Duties (Entertainment) (No. 23) Order, 1958 (S.I. No. 71 of 1958), and the Imposition of Duties (No. 28) (Special Import Levies and Miscellaneous Customs Duties) Order, 1958 (S.I. No. 92 of 1958), are hereby confirmed. 40 45

### PART III.

#### DEATH DUTIES.

20.—(1) In relation to a death which occurs after the passing of this Act, any duty which, because it has become payable or has been  
5 paid under the laws of any territory outside the State, becomes allowable or is allowed against the estate duty, payable under the laws of the State, by way of relief from double taxation, shall not be allowable under subsection (4) of section 7 of the Finance Act, 1894.

Restriction of section 7 (4) of Finance Act, 1894.

(2) In relation to a death which occurred before the passing of  
10 this Act—

(a) any duty which before such passing, because it had become payable or had been paid under the laws of any territory outside the State, became allowable or was allowed  
15 against the estate duty, payable under the laws of the State, by way of relief from double taxation, shall not be and shall be deemed never to have been allowable under subsection (4) of section 7 of the Finance Act, 1894, and

(b) any duty which after such passing, because it has become payable or has been paid under the laws of any territory outside the State, becomes allowable or is allowed  
20 against the estate duty, payable under the laws of the State, by way of relief from double taxation, shall not be allowable under subsection (4) of section 7 of the Finance Act, 1894.  
25

### PART IV.

#### EXPENSES ALLOWANCES AND BENEFITS IN KIND : INCOME TAX AND SUR-TAX.

21.—(1) Subject to the provisions of this Part of this Act, any  
30 sum paid in respect of expenses, by a body corporate to any of its directors or to any person employed by it in an employment to which this Part of this Act applies, shall, if not otherwise chargeable to income tax as income of that director or employee, be treated for the purposes of Rule 1 of the Rules applicable to  
35 Schedule E as a perquisite of the office or employment of that director or employee and included in the emoluments thereof assessable to income tax (including sur-tax) accordingly, but nothing in this subsection shall prevent a claim for a deduction being made under Rule 9 of those Rules in respect of any money expended  
40 wholly, exclusively and necessarily in performing the duties of the office or employment.

Expenses allowances, etc.

(2) The reference in subsection (1) of this section to any sum paid in respect of expenses includes a reference to any sum put by a body corporate at the disposal of a director or employee and paid  
45 away by him.

22.—(1) Subject to the following provisions of this Part of this Act, where—

Benefits in kind to be taken into account.

(a) a body corporate incurs expense in or in connection with the provision, for any of its directors or for any person  
50 employed by it in an employment to which this Part of this Act applies, of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatsoever nature, and

(b) apart from this section, the expense would not be  
55 chargeable to income tax as income of the director or employee,

Rules 1 and 9 of the Rules applicable to Schedule E and section 105 of the Income Tax Act, 1918, shall have effect in relation to so much of the expense as is not made good to the body corporate by the director or employee as if the expense had been incurred by the director or employee and the amount thereof had been refunded to him by the body corporate by means of a payment in respect of expenses, and income tax (including sur-tax) shall be chargeable accordingly. 5

(2) *Subsection (1)* of this section shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee, in any of its business premises, of any accommodation, supplies or services provided for the director or employee himself and used by him solely in performing the duties of his office or employment. 10

(3) *Subsection (1)* of this section shall not apply to expense incurred by the body corporate in or in connection with the provision of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purpose of enabling him properly to perform his duties, required by the terms of his employment to reside in the accommodation and either— 15 20

(a) the accommodation is provided in accordance with a practice which, since before the beginning of the twenty years ending with the passing of this Act, has commonly prevailed in trades of the class in question as respects employees of the class in question, or 25

(b) it is necessary, in the case of trades of the class in question, that employees of the class in question should reside on premises of the class in question,

but this subsection shall not apply where the employee is a director of the body corporate in question or of any other body corporate over which that body corporate has control or which has control over that body corporate or which is under the control of a person who also has control over that body corporate. 30

(4) *Subsection (1)* of this section shall not apply to expense incurred by the body corporate in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally. 35

(5) *Subsection (1)* of this section shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee himself, or for his spouse, children or dependants, of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement. 40

(6) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter. 45

Valuation of  
benefits in kind.

**23.**—(1) Any expense incurred by a body corporate in the acquisition or production of an asset which remains its own property shall be left out of account for the purposes of *section 22* of this Act. 50

(2) Where the making of any such provision as is mentioned in *subsection (1)* of *section 22* of this Act takes the form of a transfer of the property in any asset of the body corporate, and, since the acquisition or production thereof by the body corporate, the asset has been used or has depreciated, the body corporate shall be deemed to have incurred in the making of that provision expense equal to the value of the asset at the time of the transfer. 55

(3) (a) Where a body corporate is assessed or assessable under Schedule A in respect of any premises the whole or any 60

part of which is made available by it as living or other accommodation for any of its directors or employees, and either the body corporate pays no rent in respect of the premises or the annual amount of the rent paid by it is less than the amount of the assessment under Schedule A on the premises, *section 22* of this Act shall have effect as if the body corporate paid in respect of the premises an annual rent equal to the amount of the assessment under Schedule A on the premises.

(b) In this subsection "the amount of the assessment under Schedule A" means an amount which would have been the amount of the assessment thereunder for the year of assessment in question if section 3 of the Finance Act, 1935 (No. 28 of 1935), had not been enacted.

(4) Where an asset which continues to belong to the body corporate is used wholly or partly in the making of any such provision as is mentioned in *subsection (1)* of *section 22* of this Act, and the asset is not premises, the body corporate shall be deemed for the purposes of that section to incur (in addition to any other expense incurred by it in connection with the asset, not being expense to which *subsection (1)* of this section applies) annual expense in connection therewith of an amount equal to the annual value of the use of the asset, but where any sum by way of rent or hire is payable by the body corporate in respect of the asset—

(a) if the annual amount of the rent or hire is equal to or greater than the annual value of the use of the asset, this subsection shall not apply, and

(b) if the annual amount of the rent or hire is less than the annual value of the use of the asset, the rent or hire shall be left out of account for the purposes of that section.

(5) Any reference in this section to a body corporate which is assessable under Schedule A in respect of any premises shall be deemed to include a reference to a body corporate which would be so assessable if a state of affairs which subsists during any part of the year had subsisted for the whole of the year.

**24.—(1)** In this Part of this Act, "director" means—

(a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body,

(b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person,

(c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate,

and includes any person in accordance with whose directions or instructions the directors of a body corporate, defined in accordance with the preceding provisions of this subsection, are accustomed to act, but a person shall not, within the meaning of this subsection, be deemed to be a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act by reason only that those directors act on advice given by him in a professional capacity.

(2) In this Part of this Act, "employment" means an employment such that any emoluments thereof would fall to be assessed under Schedule E, and references to persons employed by, or employees of, a body corporate include any person who takes part in the management of the affairs of the body corporate and is not a director thereof.

Meaning of  
"director"  
"employment"  
and "employ-  
ment to which this  
Part of this Act  
applies."

(3) Subject to the provisions of this subsection and *subsection (4)* of this section, the employments to which this Part of this Act applies are employments the emoluments of which, estimated for the year of assessment in question according to the provisions of the Income Tax Acts and on the basis that they are employments 5 to which this Part of this Act applies, and without any deduction being made under Rule 9 of the Rules applicable to Schedule E in respect of money expended in performing the duties thereof, are fifteen hundred pounds or more :

Provided that—

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(a) where a person is employed in two or more employments by the same body corporate, and the total of the emoluments of those employments, for the year of assessment in question, estimated as aforesaid, is fifteen hundred pounds or more, all those employments shall be treated 15 as employments to which this Part of this Act applies, and

(b) where a person is a director of a body corporate, all employments in which he is employed by the body corporate shall be treated as employments to which this 20 Part of this Act applies.

(4) All the directors of, and persons employed by, a body corporate over which another body corporate has control shall be treated for the purposes of the proviso to *subsection (3)* of this section (but not for any other purpose) as if they were directors of, 25 or, as the case may be, as if the employment were an employment by, that other body corporate.

Additional provisions as to information.

25.—(1) In subsection (2) of section 105 of the Income Tax Act, 1918, the references to a company shall be deemed to include references to any body corporate and "director" shall have the 30 same meaning as in this Part of this Act.

(2) Where, for the purposes of a return under the said section 105, a body corporate apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters— 35

(a) the return shall contain a statement that the sum included in the return is the result of such an apportionment,

(b) the body corporate, if required so to do by notice from the inspector of taxes, shall prepare and deliver to the inspector, within the time limited by the notice, a return 40 containing full particulars as to the amount apportioned and the manner in which and the grounds on which the apportionment has been made, and

(c) where the inspector is dissatisfied with any such apportionment of expenses, he may, for the purposes of assessment, apportion the expenses, but the body corporate may, on giving notice in writing to the inspector within twenty-one days after being notified of any such apportionment made by the inspector, appeal against that apportionment to the Special Commissioners. 50

(3) The Special Commissioners shall hear and determine an appeal to them under *subsection (2)* of this section as if it were an appeal to them against an assessment to income tax and the provisions of the Income Tax Acts relating to the re-hearing of an appeal or the statement of a case for the opinion of the High Court 55 on a point of law, shall, with the necessary modifications, apply accordingly.

(4) The provisions of the Income Tax Acts relating to returns under the said section 105 shall apply in relation to any return required under *subsection (2)* of this section. 60

26.—This Part of this Act shall not apply in relation to any body corporate unless it carries on a trade or its functions consist wholly or mainly in the holding of investments or other property.

Application of  
Part IV.

27.—(1) In the preceding provisions of this Part of this Act “business premises”, in relation to a body corporate, includes all premises occupied by that body for the purpose of any trade carried on by it:

Interpretation  
of previous  
provisions of  
Part IV.

Provided that, except where the reference is expressly to premises which include living accommodation, “business premises” does not include so much of any such premises as aforesaid as is used wholly or mainly as living accommodation for any of the directors of the body corporate or for any persons employed by the body corporate in any employment to which this Part of this Act applies.

(2) Any reference in the preceding provisions of this Part of this Act to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee himself, be construed as including a reference to anything provided for the spouse, family, servants, dependants or guests of that director or employee, and the reference in the proviso to subsection (1) of this section to living accommodation for directors or employees shall be construed accordingly.

(3) In the preceding provisions of this Part of this Act, “control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person.

28.—(1) The preceding provisions of this Part of this Act shall apply in relation to unincorporated societies and other bodies as they apply in relation to bodies corporate, and, in connection with the said preceding provisions, the definition of “control” in subsection (3) of section 27 of this Act shall, with the necessary adaptations, also so apply.

Unincorporated  
bodies, partner-  
ships, and  
individuals.

(2) The preceding provisions of this Part of this Act shall apply in relation to any partnership carrying on any trade, profession or vocation as they would apply in relation to a body corporate carrying on a trade, if so much thereof as relates to directors of the body corporate or persons taking part in the management of the affairs of the body corporate were omitted, but—

(a) “control” in relation to a partnership, means the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership, and

(b) where such a partnership as aforesaid has control over a body corporate to which this Part of this Act applies (“control” being construed for this purpose in accordance with the definition thereof in subsection (3) of section 27 of this Act)—

(i) any employment of any director of that body corporate by the partnership shall be an employment to which this Part of this Act applies, and

(ii) all the employments of any person who is employed both by the partnership and by the body corporate (being employments by the partnership or the body corporate) shall, for the purpose of seeing whether those employments or any of them are employments to which this Part of this Act applies, be treated as if they were employments by the body corporate.

(3) The provisions of *subsection (2)* of this section shall apply in relation to individuals as they apply in relation to partnerships, but nothing in this subsection shall be construed as requiring an individual to be treated in any circumstances as under the control of another person.

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## PART V.

### RETIREMENT AND OTHER BENEFITS FOR DIRECTORS AND EMPLOYEES : INCOME TAX AND SUR-TAX.

Interpretation  
(Part V).

**29.—**(1) In this Part of this Act, except where the context otherwise requires—

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“director” means—

- (a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body,
- (b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person,
- (c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate,

20

and includes any person who is to be or has been a director;

“employee”, in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee;

25

“final remuneration” means, in relation to a director or employee of a body corporate, the average annual amount of his remuneration from the body corporate over the last three years of his service with the body corporate, and the amount of a person’s remuneration for any year shall be taken to be the amount thereof on which he would be assessable under the provisions of the Income Tax Acts, if those provisions required the assessment to be based on the profits or gains of that year and not on those of any other year or period, reduced by any deduction (other than deductions under section 32 of the Finance Act, 1921, or under section 36 of this Act) which would be allowable in computing profits or gains under the said Acts, and by any deductions which would be allowable in respect of wear and tear of any machinery or plant: Provided that, in the case of a director of a company, remuneration shall not include any director’s fee or similar remuneration received by him in his capacity as such director;

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“part-time director” means, in relation to a body corporate, a director who is not required to devote substantially the whole of his time to the service of the body corporate;

45

“part-time employee” means, in relation to a body corporate, an employee who is not required to devote substantially the whole of his time to the service of the body corporate;

“proprietary director” means a director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than ten per cent. of the ordinary share capital of the company;

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“proprietary employee” means, in relation to a company, an employee who is the beneficial owner of, or able, either directly or

55

through the medium of other companies or by any other indirect means, to control, more than ten per cent. of the ordinary share capital of the company;

“retirement or other benefit” means any pension, annuity, lump sum, gratuity or other like benefit to be given on retirement, or in anticipation of retirement, or, in connection with past service, after retirement, or on or in connection with death during service or after retirement, or to be given on or in anticipation of or in connection with any change in the nature of the service of the person in question, except that it does not include any pension, annuity, lump sum, gratuity, or other like benefit which is to be afforded solely by reason of the death or disability of a person resulting from an accident arising out of or in the course of his office or employment and for no other reason;

“service” means service as an employee or director of the body corporate in question and “retirement” shall be construed accordingly;

“statutory superannuation scheme” means a scheme set up by or under any enactment relating to superannuation.

(2) For the purposes of the definitions in *subsection (1)* of this section of “proprietary director” and “proprietary employee”—

(a) ordinary share capital which is owned or controlled as referred to in the definitions by a person being a spouse or an infant child of a director or employee, or by the trustee of a trust for the benefit of any such person or of such director or employee, shall be deemed to be owned or controlled by such director or employee, and

(b) “ordinary share capital” means all the issued capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the rate of income tax, but have no other right to share in the profits of the company.

(3) Where an alteration has been made in a retirement benefits scheme at any time after the 16th day of April, 1958, the scheme shall, for the purposes of this Part of this Act, be deemed to have become a new scheme coming into being on the date of the alteration, but this subsection shall not apply to an alteration approved by the Revenue Commissioners.

(4) Any reference in this Part of this Act to the provision for a person of retirement or other benefits includes a reference to the provision of benefits payable to that person’s spouse, children, dependants or legal personal representatives.

(5) Any reference in this Part of this Act to the provision of retirement or other benefits, or of a pension or annuity, by a body corporate includes a reference to the provision thereof by means of a contract with a third person.

(6) This Part of this Act shall apply in relation to unincorporated societies or other bodies as it applies in relation to bodies corporate, but the reference in this subsection to unincorporated societies or other bodies shall be deemed not to include a reference to individuals in partnership.

30.—(1) Subject to *section 31* of this Act, where, pursuant to a scheme for the provision of future retirement or other benefits for persons consisting of or including directors or employees of a body corporate (in this Part of this Act referred to as a retirement benefits scheme), the body corporate in any year of assessment pays a sum with a view to the provision of any such benefits for any

Charge to tax in respect of provision for retirement or other benefits to directors and employees of bodies corporate.

director or employee thereof, then (whether or not the accrual of the benefits is dependent on any contingency)—

- (a) the sum paid, if not otherwise chargeable to income tax as income of the director or employee, shall be deemed for all the purposes of the Income Tax Acts to be income of that director or employee for that year of assessment and assessable to income tax under Case VI of Schedule D; and 5
- (b) where the payment is made under any such insurance or contract as is mentioned in section 32 of the Income Tax Act, 1918, relief, if not otherwise allowable, shall be given to the director or employee under that section in respect of the payment and shall be given to the extent, if any, to which such relief would have been allowable to him if the payment had been made by him and the insurance or contract under which the payment is made had been made with him. 15

(2) Subject to *section 31* of this Act, where—

- (a) an agreement is in force between a body corporate and a director or employee thereof for the provision for him of any future retirement or other benefits afforded by a retirement benefits scheme, or a person is serving as a director or employee of a body corporate in connection wherewith there is a retirement benefits scheme, relating to persons of the class within which he falls, under which any such benefits will be provided for him, 20
- (b) the body corporate does not, or does not fully, secure the provision of the benefits by the payment of such sums as are mentioned in *subsection (1)* of this section, and 25
- (c) the circumstances in which the benefits are to accrue are not such as will render the benefits assessable to income tax as emoluments of his office as a director or of his employment, 30

then (whether or not the accrual of the benefits is dependent on any contingency), in each year of assessment in which the agreement is in force or the director or employee is serving as aforesaid, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, a sum equal to the annual sum which the body corporate would have had to pay in that year under a contract with a third person which secured the provision by that third person of those benefits or, as the case may be, of those benefits so far as not already secured by the payment of such sums as are mentioned in *subsection (1)* of this section, shall be deemed for all the purposes of the Income Tax Acts to be income of the director or employee for that year and assessable to income tax under Case VI of Schedule D. 45

(3) Where the body corporate pays any sum as mentioned in *subsection (1)* of this section in relation to several directors or employees, the sum so paid shall, for the purpose of that subsection, be apportioned among them by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them. 50

Exemptions from charge to tax under *section 30*.

31.—(1) The following payments shall be exempted from the operation of *subsection (1)* of *section 30* of this Act : 55

- (a) payments to a superannuation fund approved (whether in whole or in part) by the Revenue Commissioners for the purposes of section 32 of the Finance Act, 1921; 50
- (b) payments made by way of premium pursuant to a retirement benefits scheme, the benefits whereunder are 60

5                   secured by premiums payable by the body corporate,  
with or without contributions by the directors or  
employees affected, under life or endowment assurance  
or life annuity contracts, being a scheme which was in  
operation before the 16th day of April, 1958,

subject to the proviso that *paragraph (b)* of this subsection shall  
not apply in relation to a payment made in respect of a director  
or employee admitted to membership of the scheme after the com-  
mencement of this Part of this Act or in respect of a person who  
10 at any time during the year of assessment is—

- (i) a proprietary director,
- (ii) a part-time director,
- (iii) a proprietary employee, or
- (iv) a part-time employee.

15       (2) (a) Neither *subsection (1)* nor *subsection (2)* of *section 30*  
of this Act shall apply so as to cause any sum to be  
treated as income as therein mentioned where the retire-  
ment benefits scheme in question is—

- (i) a statutory superannuation scheme,
- 20       (ii) an excepted scheme, or
- (iii) a scheme which is for the time being approved by  
the Revenue Commissioners under *section 32* of  
this Act.

25       (b) In this subsection “excepted scheme” means a retirement  
benefits scheme relating to persons, none of whom is a  
proprietary director, part-time director, proprietary  
employee or part-time employee, under the terms of  
which the aggregate value of all benefits which may be  
provided for any person cannot exceed £3,000 (where  
30       there are more retirement benefits schemes than one sub-  
sisting for the time being in connection with the body  
corporate and relating to persons of the same class, all  
such schemes taken together being deemed to constitute  
a single scheme for the purposes of this definition).

35       (3) Where—

- (a) in respect of the provision for a director or employee of  
any future retirement or other benefits, a sum (in this  
subsection referred to as the charged sum) has been  
40       deemed to be income of his by virtue either of *sub-*  
*section (1)* or of *subsection (2)* of *section 30* of this Act,
- (b) subsequently the director or employee proves to the  
satisfaction of the Revenue Commissioners that no pay-  
ment in respect of, or in substitution for, the benefits  
45       has been made and that some event has occurred by  
reason whereof no such payment will be made, and
- (c) within three years from the time when that event occurred,  
the director or employee claims relief under this sub-  
section,

the Revenue Commissioners shall give relief in respect of  
50 tax on the charged sum by repayment or otherwise as may be  
appropriate; and, if the director or employee satisfies the Revenue  
Commissioners as aforesaid in relation to some particular part of  
the benefits but not the whole thereof, they may give such relief  
as may seem to them just and reasonable.

55       (4) Where, apart from this subsection, any sum would be deemed,  
by virtue of *subsection (1)* or of *subsection (2)* of *section 30* of this  
Act, to be income of an employee for any year of assessment, but,  
for that year, the employee is, under the provisions of the Income

Tax Acts, either not assessable to income tax in respect of the emoluments of his employment or is so assessable in respect thereof on the basis of the amount received in the State, that subsection shall not apply so as to cause that sum to be deemed to be income of his for that year.

5

Approval of retirement benefits schemes.

**32.**—(1) Subject to *section 33* of this Act, the Revenue Commissioners shall approve a retirement benefits scheme for the purposes of this Part of this Act if it is shown to their satisfaction that the scheme satisfies all the following conditions :

- (a) that the scheme is established in connection with a trade or undertaking carried on wholly or partly in the State by a body corporate resident for income tax purposes therein; 10
- (b) that the benefits afforded by the scheme may accrue only to— 15
  - (i) directors or employees of the body corporate on retirement, either on reaching a specified age (not exceeding seventy years) or on becoming permanently incapacitated at an earlier age, or
  - (ii) the widows, children or other dependants or the legal personal representatives of persons who are or have been directors or employees of the body corporate, on the death of such persons; 20
- (c) that each person to whom the scheme relates has, under it, a specified right to defined benefits and has been made aware of the terms of the scheme; 25
- (d) that the nature of the benefits afforded by the scheme is the same in relation to all the persons to whom the scheme relates;
- (e) that not less than one-third of the cost of providing the benefits payable under the scheme, to or in respect of each of the persons to whom the scheme relates, is borne by the body corporate; 30
- (f) that no sum paid by the body corporate for the purposes of providing benefits under the scheme may be applied to any other purpose or may be repaid to the body corporate; 35
- (g) that, where any director or employee contributes to the cost of providing the benefits under the scheme, no sum so contributed by any person may be applied to any purpose other than the provision of those benefits or may be refunded to him; 40
- (h) that—
  - (i) the aggregate value of all benefits which may accrue to any person on his retirement may not exceed the value, at the date of such retirement, of a pension for his life equal to one-sixtieth of his final remuneration multiplied by the number of his years of service, or the value, at such date, of a pension for his life equal to two-thirds of his final remuneration whichever is the lesser, and 50
  - (ii) the fraction of such aggregate value which may be represented by the value of the benefits, if any, given otherwise than by way of non-commutable pension or annuity for his life does not exceed one-fourth; 55
- (i) that the aggregate value of all benefits (in this subparagraph referred to as death benefits), which may accrue on the death during his service of any person, may not

5 exceed the value of the benefits which might, consonant  
with the condition set forth in *subparagraph (i)* of  
*paragraph (h)* of this subsection, have been provided  
for him on retirement on attaining the specified age,  
if he had continued to serve until he attained that  
age at an annual rate of remuneration equal to his final  
remuneration, and that the value of all such death  
benefits which may be given otherwise than by way of  
10 non-commutable pension or annuity may not exceed  
whichever of the following amounts is the greatest:

- (i) the sum of one thousand pounds,
- (ii) an amount equal to the person's final remuneration,
- (iii) an amount equal to one-thirtieth of the person's  
15 final remuneration multiplied by the number of his  
years of service or by forty-five, whichever is the  
lesser,
- (iv) an amount equal to the aggregate of the sums con-  
tributed by the person under the scheme, together  
with reasonable interest on those sums;

20 (j) that—

- (i) the aggregate value of all benefits which may  
accrue, on the death after his retirement of any  
person, may not exceed an amount equal to the  
25 aggregate value of the benefits to which that  
person became entitled on his retirement reduced  
by the total amount of all payments made or due  
up to such death in respect of such benefits, or
- (ii) the only benefit which may accrue on the death  
after his retirement of any person is a non-commu-  
table pension to his widow or other dependant of  
30 an amount not exceeding one-half of the pension  
or annuity to which that person had been entitled  
at the time of his death;

35 (k) that the pensions or annuities provided under the scheme  
are not assignable in whole or in part;

(l) that the scheme includes provision securing that no rights  
to any benefit provided or to be provided under the  
scheme (whether or not the accrual of the benefit is  
dependent on a contingency) shall be surrendered in  
40 whole or in part; and

(m) that no service of a person in whatever capacity while  
he is—

- (i) a proprietary director,
- (ii) a part-time director,
- 45 (iii) a proprietary employee, or
- (iv) a part-time employee,

may be taken into account for any of the purposes of the  
scheme.

50 (2) The Revenue Commissioners may, if they think fit, having  
regard to the circumstances of the particular case, and subject to  
such conditions as they think proper to impose, approve a retirement  
benefits scheme for the purposes of this Part of this Act notwith-  
standing that one or more of the following paragraphs applies:

- (i) the condition set out in *paragraph (a)* of *sub-*  
55 *section (1)* of this section is not satisfied,
- (ii) while the provision of benefits which may accrue only  
in the circumstances mentioned in *paragraph (b)* of  
that subsection is the principal purpose of the  
scheme, such provision is not its sole purpose,

- (iii) the condition set out in *paragraph (f)* of that subsection is not satisfied because, if the amount of the sums paid by the body corporate for the purpose of providing benefits under the scheme in respect of any person or persons is in excess of the amount required to provide benefits in accordance with the scheme for such person or persons, a sum in relation to the excess may be repaid to the body corporate, 5
- (iv) the condition set out in *paragraph (g)* of that subsection is not satisfied because sums contributed by a director or employee may be refunded to him (with or without reasonable interest thereon) on the cessation of his service in circumstances such that he does not become entitled to a pension payable either immediately or at some future date, 15
- (v) in exceptional circumstances the aggregate value of the benefits which may accrue on the retirement of a director or employee may exceed the limit set out in *subparagraph (i)* of *paragraph (h)* of that subsection, or the value of such benefits which may be given otherwise than by way of non-commutable pension or annuity may exceed the limit set out in *subparagraph (ii)* of *paragraph (h)* of that subsection, 20
- (vi) the aggregate value of the benefits which may be given, otherwise than by way of non-commutable pension or annuity, on the death during his service of any person may exceed the limit set out in *paragraph (i)* of that subsection, 25
- (vii) the condition set out in *paragraph (m)* of that subsection is not satisfied in relation to a part-time director or part-time employee, 30

provided that the scheme otherwise satisfies the conditions set out in that subsection and that all payments under the scheme to persons to whom the scheme relates are payable by or through a person resident, for income tax purposes, in the State. 35

(3) Where the Revenue Commissioners have given their approval to a scheme, they may at any time, by notice in writing to the body corporate in question, withdraw their approval on such grounds, and as from such date (including a date before the date of the notice) as may be specified in the notice and where any approval is withdrawn under this subsection, such assessments as, having regard to *section 30* of this Act, may be appropriate consequent upon the withdrawal shall thereupon be made. 40

(4) In the case of a scheme in existence on the commencement of this Part of this Act which does not then satisfy the conditions set out in *subsection (1)* of this section or which is not then a scheme which the Revenue Commissioners see fit to approve under *subsection (2)* of this section but which is so altered before the 6th day of April, 1960, or within such further time as the Revenue Commissioners may allow, as to be approvable under *subsection (1)* or *subsection (2)* of this section, approval thereof after the 6th day of April, 1959, shall, if the Revenue Commissioners so direct, be deemed to have had effect as from that day. 45 50

Aggregation and  
severance of  
schemes.

**33.—**(1) References in this Part of this Act to a retirement benefits scheme shall be construed in accordance with the following provisions: 55

- (a) references to such a scheme shall, in relation to a deed, agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons of two or more classes, be construed as references to 60

5 so much thereof as relates to persons of a single class,  
and accordingly a deed, agreement, series of agree-  
ments or other arrangements so providing shall be  
treated for the purposes of this Part of this Act as  
constituting two or more retirement benefits schemes  
relating respectively to the different classes;

10 (b) references to such a scheme include references to a deed,  
agreement, series of agreements, or other arrangements  
providing for retirement or other benefits for persons  
consisting of or including a director or employee, or  
directors or employees, of a body corporate (or, in a  
case falling within *paragraph (a)* of this subsection,  
to so much thereof as relates to a person or persons  
of any one class), notwithstanding that it or they relates  
15 or relate only to a small number of directors or  
employees, or to a single director or employee.

(2) For the purpose of determining, in the case of a retirement  
benefits scheme submitted for the approval of the Revenue Com-  
missioners, whether the conditions specified in *subsection (1)* of  
20 *section 32* of this Act are satisfied, the scheme shall be considered  
in conjunction with any other scheme or schemes subsisting in  
connection with the body corporate and relating to persons of  
the class to which the scheme in question relates and if the said  
conditions are satisfied in the case of all the schemes taken  
25 together, those conditions shall be taken to be satisfied in the case  
of each of them, and, if not, those conditions shall be taken to be  
satisfied in the case of none of them.

(3) The Revenue Commissioners may, if they think fit—

(a) approve a part of a retirement benefits scheme, or  
30 (b) approve such a scheme notwithstanding that, having  
regard to another such scheme subsisting in connection  
with the body corporate, the scheme in question is to  
be treated by virtue of the last preceding subsection  
as not satisfying the conditions aforesaid,

35 and references in this Part of this Act to a retirement benefits  
scheme approved under *section 32* of this Act shall be deemed to  
include references to a part of a scheme approved under this  
subsection.

34.—(1) This section applies in relation to a retirement benefits  
40 scheme which is approved by the Revenue Commissioners by  
exercise of the powers conferred on them by *subsection (2)* of  
*section 32* of this Act, in a case to which *paragraph (v)* of that  
subsection applies.

Certain amounts  
to be deemed  
to be income.

(2) Where, under a retirement benefits scheme in relation to  
45 which this section applies, any benefit is provided for a director  
or employee on his retirement, otherwise than by way of non-  
commutable pension or annuity, and the total value of all benefits  
so provided under all retirement benefits schemes in relation to  
which this section applies exceeds the amount which would have  
50 satisfied the condition specified in *subparagraph (ii)* of *paragraph  
(h)* of *subsection (1)* of *section 32* of this Act, the amount of such  
excess (hereafter in this section referred to as the excess) shall be  
deemed, for all the purposes of the Income Tax Acts, to be income  
of the director or employee for the year of assessment in which his  
55 retirement takes place and assessable to income tax under Case VI  
of Schedule D:

Provided that the director or employee shall, on proof of the  
relevant facts to the satisfaction of the Revenue Commissioners,  
be entitled to have the total amount of income tax and sur-tax  
60 payable by him for the year of assessment reduced to the total of  
the two following amounts:

- (i) the amount of income tax and sur-tax which would have been payable by him if this subsection had not been enacted, and
- (ii) income tax and sur-tax on the amount of the excess at rates respectively ascertained in the manner specified in *subsection (3)* of this section. 5

(3) There shall be ascertained :

- (a) the amounts of income tax and sur-tax respectively which would have been payable by the director or employee for the year of assessment in which his retirement takes place if his total income for that year had not included any remuneration from the office or employment from which he has retired, but had included a full year's payment of the non-commutable pension or annuity, if any, provided for him on his retirement, and 10 15
- (b) the additional amounts of income tax and sur-tax, over and above the amounts ascertained in accordance with *paragraph (a)* of this subsection, which would have been payable by him if his total income for the year of assessment had, in addition to the income specified in that paragraph, included a full year's payment of a pension for his life (hereafter in this subsection referred to as the notional pension) the value of which, at the date of his retirement, would have been equal to the excess, 20 25

and the rates of income tax and sur-tax respectively for the purposes of *paragraph (ii)* of the proviso to *subsection (2)* of this section shall then be ascertained by dividing the additional amounts of income tax and sur-tax respectively computed in accordance with *paragraph (b)* of this subsection by the amount of the notional pension. 30

- (4) (a) Rule 21 of the General Rules shall apply to any payment made in respect, or on account, of the excess as if such payment were a payment of interest charged to tax under Schedule D not payable out of profits or gains brought into charge to tax, and tax shall accordingly be deducted by and recoverable from the person by or through whom the payment is made. 35
- (b) this subsection shall not affect the liability of the director or employee in question to assessment to tax by virtue of this section under Case VI of Schedule D, or the amount on which he may be so assessed to tax, but, for the purposes of collection, credit shall be given to him for the amount deducted and accounted for under this subsection. 40 45

Application of  
Rule 21 of  
General Rules to  
certain payments.

35.—(1) This section applies in relation to a retirement benefits scheme approved by the Revenue Commissioners by exercise of the powers conferred on them by *subsection (2)* of *section 32* of this Act, in a case to which *paragraph (vi)* of that subsection applies. 50

(2) Where, under a retirement benefits scheme in relation to which this section applies, any benefit is provided, otherwise than by way of non-commutable pension or annuity, on the death during his service of a director or employee and the total value of all benefits so provided under that scheme and under all other schemes exempt from the operation of *section 30* of this Act, subsisting in connection with the body corporate, exceeds the amount which would have satisfied the condition specified in *paragraph (i)* of *subsection (1)* of *section 32* of this Act, Rule 21 of the General Rules shall apply to any payment made in respect, or on account, of such excess as if the payment were a payment of interest 55 60

charged to tax under Schedule D not payable out of profits or gains brought into charge to tax, and tax shall accordingly be deducted by and recoverable from the person by or through whom the payment is made.

- 5 (3) Nothing in this section shall cause any such excess as is referred to in *subsection (2)* of this section to be treated, for any purpose of the Income Tax Acts, as income either of the legal personal representative of the deceased director or employee or of any other person.

- 10 **36.**—(1) Where, under the terms of a retirement benefits scheme approved by the Revenue Commissioners under *section 32* of this Act, a director or employee contributes towards the cost of providing the benefits afforded by the scheme, any amount so contributed by the director or employee shall, for the purpose of assessment under  
15 Schedule E, be allowed as a deduction from the remuneration from his office or employment and such deduction shall be made in accordance with *subsection (3)* of *section 17* of the Finance Act, 1929 (No. 32 of 1929), but

Allowance of contributions as deductions, etc.

- 20 (a) the amount (hereafter in this paragraph referred to as the said amount), otherwise allowable under this subsection for any year of assessment, of any deduction or deductions shall, where necessary, be reduced (including reduced to nil) so that the total amount of the said amount and of the deduction, if any, allowable for the  
25 same year of assessment under *subsection (1)* of *section 32* of the Finance Act, 1921, in respect of contributions made to a superannuation fund relating to the same office or employment, shall not exceed 15 per cent. of the remuneration from the office or employment concerned for the year, or the portion of a year, for which the relevant contributions were made, and

- (b) no deduction shall be allowable in respect of a contribution which is repaid before the end of the year of assessment in which it is made.

- 35 (2) Where any contributions made by a director or employee under an approved scheme within the meaning of *subsection (1)* of this section are repaid to him during his lifetime—

- 40 (a) Rule 21 of the General Rules shall apply to the amount of the contributions repaid as if it were a payment of interest charged to tax under Schedule D not payable out of profits or gains brought into charge to tax, and tax shall accordingly be deducted by and recovered from the person by or through whom the repayment is made,

- 45 (b) for the purposes of income tax (excluding sur-tax) the amount of the contributions repaid shall not be regarded as income of the director or employee but, on making a claim in that behalf, he shall be entitled to be repaid so much of the tax deducted under  
50 *paragraph (a)* of this subsection as is in excess of a sum equal to tax on the amount of the contributions repaid, exclusive of any contributions or portions of contributions which were not allowable as deductions under  
55 *subsection (1)* of this section, at a rate ascertained by dividing the total of the additional amounts of income tax which would have been payable by him for the six years of assessment preceding that in which the contributions were repaid if no deduction had been allowed under the said *subsection (1)* by reference to the payment of those contributions, by the total of the deductions which were actually so allowed for those  
60 years, and

- (c) for the purposes of sur-tax, the contributions repaid shall, to the extent to which they were allowed as deductions under *subsection (1)* of this section, be treated as income of the several years of assessment for which they were so allowed and any necessary additional assessments to sur-tax may be made accordingly. 5

(3) Paragraph (b) of the proviso to section 32 of the Finance Act, 1921, shall cease to have effect and no relief under section 32 of the Income Tax Act, 1918, shall be allowed for any year of assessment in respect of a payment if, for that year, a deduction— 10

- (a) is allowable under section 32 of the Finance Act, 1921, consequent upon paragraph (b) of the proviso to subsection (1) of that section having ceased to have effect, or

- (b) is allowable under *subsection (1)* of this section, 15

in respect of that payment or in respect of a similar payment made in the year preceding the year of assessment.

Delivery of particulars of retirement benefits schemes, etc.

37.—(1) It shall be the duty of a body corporate—

- (a) to deliver to the inspector of taxes within the time specified in this subsection, particulars of any retirement benefits scheme subsisting in connection with the body corporate on the commencement of this Part of this Act, or coming into being after such commencement, other than a scheme operated through a fund approved by the Revenue Commissioners under section 32 of the Finance Act, 1921, or a statutory superannuation scheme, and 20 25

- (b) when required so to do by notice given by the inspector of taxes, to furnish within the time limited by the notice such further particulars as he may reasonably require with regard to any retirement benefits scheme subsisting in connection with the body corporate or to the persons to whom it relates. 30

The time for delivery of particulars under *paragraph (a)* of this subsection shall be— 35

- (i) in the case of a scheme that came into being before the commencement of this Act, six months beginning with such commencement, and
- (ii) in the case of a scheme coming into being after such commencement, three months beginning with the date of its coming into being. 40

(2) Where a retirement benefits scheme is for the time being approved for the purposes of this Part of this Act, it shall be the duty of the person having the management of the scheme, when required so to do by notice given by the inspector of taxes, to furnish within the time limited by the notice such particulars relating to the carrying out of the scheme as the inspector may reasonably require, including (in particular and without prejudice to the generality of the foregoing)— 45

- (a) particulars of payments made to provide benefits under the scheme, 50
- (b) particulars of payments made in respect of or on account of benefits under the scheme and of persons to whom such payments were made, and
- (c) particulars of contributions refunded under the scheme and of any interest paid on such contributions. 55

5 (3) (a) Subsections (1) and (3) of section 107 of the Income Tax Act, 1918, shall apply in relation to particulars required by or under this section as they apply in relation to a list, declaration or statement required by notice referred to in the said subsection (1).

10 (b) In a case in which the said subsection (1) applies by virtue of the foregoing paragraph, the reference therein to the time limited in a notice shall be construed, where particulars are required to be delivered by *paragraph (a) of subsection (1)* of this section, as a reference to the time specified in that subsection.

15 (4) Where a body corporate deducts from the emoluments which it pays to any of its directors or employees, or pays on his behalf, any contributions of that director or employee under an approved retirement benefits scheme, particulars of the deduction or payment shall be included in the appropriate return of wages and salaries required to be furnished under section 105 of the Income Tax Act, 1918.

## PART VI.

### 20 RETIREMENT ANNUITIES : INCOME TAX AND SUR-TAX.

38.—(1) Where, in the year beginning on the 6th day of April, 1958, or in any subsequent year of assessment, an individual—

Retirement annuities (relief for premiums, and earned income relief).

25 (a) is (or would but for an insufficiency of profits or gains be) chargeable to tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and

30 (b) pays a premium or other consideration under an annuity contract for the time being approved by the Revenue Commissioners as being a contract the main benefit secured by which is a life annuity for the individual in his old age (hereafter in this Part of this Act referred to as a qualifying premium),

35 relief from tax may be given in respect of the qualifying premium under *section 39* of this Act, and any annuity payable to the same or another individual shall be treated as earned income of the annuitant to the extent to which it is payable in return for any amount on which relief is so given.

40 (2) Subject to *subsection (3)* of this section, the Revenue Commissioners shall not approve a contract unless it appears to them to satisfy the conditions that it is made by the individual with a person lawfully carrying on in the State the business of granting annuities on human life, and that it does not—

45 (a) provide for the payment by that person during the life of the individual of any sum except sums payable by way of annuity to the individual,

(b) provide for the annuity payable to the individual to commence before he attains the age of sixty or after he attains the age of seventy,

50 (c) provide for the payment by that person of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable either to the individual or to a widow or widower, are payable to the individual's personal representatives by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits,

55

- (d) provide for the annuity, if any, payable to a widow or widower of the individual to be of a greater annual amount than that paid or payable to the individual, or
- (e) provide for the payment of any annuity otherwise than for the life of the annuitant, 5

and that it does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.

(3) The Revenue Commissioners may, if they think fit, and subject to any conditions they think proper to impose, approve a contract otherwise satisfying the foregoing conditions, notwithstanding that the contract provides for one or more of the following matters: 10

- (a) for the payment after the individual's death of an annuity to a dependant not the widow or widower of the individual; 15
- (b) for the payment to the individual of an annuity commencing before he attains the age of sixty, if the annuity is payable on his becoming permanently incapable through infirmity of mind or body of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted; 20
- (c) if the individual's occupation is one in which persons customarily retire before attaining the age of sixty, for the annuity to commence before he attains that age (but not before he attains the age of fifty); 25
- (d) for the annuity payable to any person to continue for a term certain (not exceeding ten years), notwithstanding his death within that term, or for the annuity payable to any person to terminate, or be suspended, on marriage (or remarriage) or in other circumstances; 30
- (e) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by his personal representatives in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those entitled on intestacy or to an appropriation of it to a legacy or to a share or interest in the estate. 35

(4) So much of subsection (1) of this section as provides that an annuity shall be treated, in whole or in part, as earned income of the annuitant shall apply only in relation to the annuitant to whom the annuity is made payable by the terms of the contract. 40

(5) The foregoing provisions of this section shall apply in relation to a contribution under a trust scheme approved by the Revenue Commissioners as they apply in relation to a premium under an annuity contract so approved, with the modification that, for the condition as to the person with whom the contract is made, there shall be substituted a condition that the scheme— 45

- (a) is established under the law of, and administered in, the State, 50
- (b) is established for the benefit of individuals engaged in or connected with a particular occupation (or one or other of a group of occupations), and for the purpose of providing retirement annuities for them, with or without subsidiary benefits for their families or dependants, and 55
- (c) is so established under irrevocable trusts by a body of persons comprising or representing the majority of the individuals so engaged in the State,

and with the necessary adaptations of other references to the contract or the person with whom it is made; and exemption from income tax shall be allowed in respect of income derived from investments or deposits of any fund maintained for the purpose  
5 aforesaid under a scheme for the time being approved under this subsection.

(6) The Revenue Commissioners may at any time, by notice in writing given to the persons by and to whom premiums are payable under any contract for the time being approved under this section  
10 or to the trustees or other persons having the management of any scheme so approved, withdraw that approval on such grounds and from such date (including a date before the date of the notice) as may be specified in the notice and where any approval is withdrawn under this section, such assessments as may  
15 be appropriate for the purpose of withdrawing any reliefs given under this Part of this Act consequent upon the approval shall thereupon be made.

(7) For the purposes of this Part of this Act, a married woman's relevant earnings shall not be treated as her husband's relevant  
20 earnings, notwithstanding that her income chargeable to tax is treated as his income.

(8) Subject to *subsection (7)* of this section, "relevant earnings" in relation to any individual means, for the purposes of this Part of this Act, any income of his chargeable to tax for the year of  
25 assessment in question, being either—

- (a) income arising in respect of remuneration from an office or employment of profit held by him other than a pensionable office or employment,
- 30 (b) income from any property which is attached to or forms part of the emoluments of any such office or employment of profit held by him, or
- (c) income which is chargeable under Schedule B or Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or  
35 vocation either as an individual or, in the case of a partnership, as a partner personally acting therein,

but does not include any remuneration from an investment company of which he is—

- 40 (i) a proprietary director as defined in *section 29* of this Act, or
- (ii) a proprietary employee as defined in that section.

In this subsection "investment company" means a company the income whereof consists mainly of investment income, and "investment income" means, in relation to a company, income  
45 which, if the company were an individual, would not be earned income.

(9) For the purposes of this Part of this Act, an office or employment is a pensionable office or employment if, and only if, service in it is service to which a sponsored superannuation  
50 scheme relates (not being a scheme under which the benefits provided in respect of that service are limited to a lump sum payable on the termination of the service through death before the age of seventy or some lower age or disability before the age of seventy or some lower age); but references to a pensionable office or  
55 employment apply whether or not the duties are performed wholly or partly in the State or the holder is chargeable to tax in respect of it.

Service in an office or employment shall not for the purposes of this definition be treated as service to which a sponsored  
60 superannuation scheme relates by reason only of the fact that the

holder of the office or employment might (though he does not) participate in the scheme by exercising or refraining from exercising an option open to him by virtue of that service.

(10) In subsection (9) of this section and in the *First Schedule* to this Act "sponsored superannuation scheme" means a scheme or arrangement relating to service in particular offices or employments and having for its object or one of its objects to make provision in respect of persons serving therein against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters, being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service (whether it is the cost or part of the cost of the benefits provided, or of paying premiums or other sums in order to provide those benefits, or of administering or instituting the scheme or arrangement); but for this purpose a person shall be treated as bearing by reason of his service the cost of any payment made or agreed to be made in respect of his service, if that payment or the agreement to make it is treated under the Income Tax Acts as increasing his income or would be so treated if he were chargeable to tax under Schedule E in respect of his emoluments from that service.

(11) Nothing in sections 4 and 6 of the Policies of Assurance Act, 1867, shall be taken to apply to any contract approved under this section.

Nature and  
amount of relief  
for qualifying  
premiums.

39.—(1) Where relief is to be given under this section in respect of any qualifying premium paid by an individual, the amount of that premium shall be deducted from or set off against his relevant earnings for the year of assessment in which the premium is paid:

Provided that the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums) shall not be more than the sum of five hundred pounds, nor more than one-tenth of his net relevant earnings for that year, and where the condition in paragraph (a) of subsection (1) of section 38 of this Act is satisfied as respects part only of that year, then, for the said sum of five hundred pounds, there shall be substituted the sum which bears to it the same proportion as that part bears to the whole year (but so that in the case of individuals holding a pensionable office or employment, and of individuals born in or before the year 1917, this proviso shall have effect subject to the provisions of the *First Schedule* to this Act).

(2) If in any year of assessment a reduction or a greater reduction would be made under this section in the relevant earnings of an individual but for an insufficiency of net relevant earnings, the amount of the reduction which would be made but for that insufficiency, less the amount of any reduction which is made in that year, shall be carried forward to the next following year, and shall be treated for the purposes of relief under this section as the amount of a qualifying premium paid in that following year, and so on for succeeding years (if necessary).

(3) For the purposes of relief under this section, an individual's relevant earnings are those earnings before giving effect to any deduction falling to be made therefrom in respect of a loss or in respect of any allowance under Rule 6 of the Rules applicable to Cases I and II of Schedule D, subsection (3) of section 5 or section 6 of the Finance Act, 1946 (No. 15 of 1946), Part V of the Finance Act, 1956 (No. 22 of 1956), Part IV of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), or Part V of the Finance Act, 1957 (No. 20 of 1957), and references to income in the following provisions of this section (other than references to total income) shall be construed similarly.

(4) Subject to the following provisions of this section, "net relevant earnings" means, in relation to any individual, the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions falling to be made from the relevant earnings in computing his total income for that year being either—

(a) deductions in respect of payments made by him, or

(b) deductions in respect of losses or of such allowances as are mentioned in *subsection (3)* of this section, being losses or allowances arising from activities, profits or gains of which would be included in computing relevant earnings of the individual or of the individual's wife or husband for the year beginning on the 6th day of April, 1958, or a later year of assessment.

(5) Where, in any year of assessment for which an individual claims and is allowed relief under this section, there falls to be made in computing the total income of the individual or that of the individual's wife or husband a deduction in respect of any such loss or allowance of the individual as is referred to in *paragraph (b)* of *subsection (4)* of this section, and the deduction or part of it falls to be so made from income other than relevant earnings, the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment (being deducted as far as may be from those of the immediately following year, whether or not he claims or is entitled to claim relief under this section for that year, and so far as it cannot be so deducted, then from those of the next year, and so on).

(6) Where an individual's income for any year of assessment consists partly of relevant earnings, and partly of other income, then, as far as may be any deductions which fall to be made in computing his total income, and which may be treated in whole or in part either as made from relevant earnings or as made from other income, shall be treated for the purposes of this section as being made from those relevant earnings in so far as they are deductions in respect of any such loss as is referred to in *paragraph (b)* of *subsection (4)* of this section and otherwise as being made from that other income.

(7) An individual's net relevant earnings for any year of assessment are to be computed without regard to any relief which falls to be given for that year under this section either to the individual or to the individual's wife or husband.

(8) An individual's relevant earnings, in the case of partnership profits, shall be taken to be his share, computed in accordance with the Income Tax Acts, of the partnership income, but the amount to be included in respect of those earnings in arriving at his net relevant earnings shall be his share of that income after making therefrom all such deductions (if any) in respect of payments made by the partnership or in respect of any such allowance as is mentioned in *subsection (3)* of this section falling to be made to the partnership for the year commencing the 6th day of April, 1958, or a later year of assessment, as would be made therefrom, if the partnership were an individual, in computing the net relevant earnings of that individual.

(9) Where relief under this section for any year of assessment is claimed and allowed (whether or not relief then falls to be given for that year), and afterwards there is made any additional assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax, there shall be made also such adjustments, if any, as are consequential thereon in the relief allowed or given under this section for that or any subsequent year of assessment.

(10) Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract; and references in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section. 5

(11) In this section "total income" means total income from all sources as estimated in accordance with the provisions of the Income Tax Acts. 10

Taxation of  
assurance  
companies  
doing annuity  
business.

40.—(1) Where an assurance company carries on pension annuity business—

(a) exemption from income tax shall be allowed in respect of income from investments and deposits of so much of the company's annuity fund as is referable to that business, and 15

(b) the company shall not be entitled to treat as paid out of profits or gains brought into charge to tax any part so referable of the annuities paid by the company. 20

(2) Except in the case of an assurance company charged to tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business or in respect of (where the company has made an election under subsection (3) of section 3 of the Finance Act, 1947 (No. 15 of 1947) ) the profits of its ordinary life assurance business, profits arising to an assurance company from pension annuity business, or from general annuity business, shall be treated as annual profits or gains within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose— 25 30

(a) the business of each such class shall be treated separately, and

(b) subject to the foregoing paragraph, the profits therefrom shall be computed in accordance with the provisions applicable to Case I of Schedule D (and without regard to the provisions of Rule 2 of the Rules applicable to Case VI of Schedule D as to the period to be taken in computing profits for the purposes of the said Case VI): 35 40

Provided that in making any such computation—

(i) the provisions of subsection (1) of section 3 of the Finance Act, 1947, shall apply with the necessary modifications and, in particular, with the omission therefrom of all references to policy-holders, 45

(ii) no deduction shall be allowed in respect of any expense being an expense of management referred to in section 33 of the Income Tax Act, 1918, and

(iii) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has been sustained in annuity business of the same class in any previous year for which this section was in operation; but no such loss shall be taken into account more than once for the purposes of this paragraph. 50 55

(3) Where income from the investments of the foreign life assurance fund of an assurance company having its head office in the State has been relieved from tax under Rule (2) of the Rules contained in Part II of the First Schedule to the Finance Act, 1929 (No. 32 of 1929), a corresponding reduction shall be made in any 60

amount on which the company is chargeable to tax by virtue of *subsection (2)* of this section in like manner as a corresponding reduction is made under *subsection (5)* of section 33 of the Income Tax Act, 1918, in the relief granted to the company in respect of  
5 expenses of management.

(4) Where an assurance company not having its head office in the State carries on life assurance business through any branch or agency in the State, then, any charge to tax under *subsection (2)* of this section for any year of assessment on the profits arising  
10 to the company from pension annuity business, or from general annuity business,—

(a) shall be made on an amount bearing to the total amount of those profits, wherever arising, the same proportion as, under Rule 3 of the Rules applicable to Case III of Schedule D, the part of the income of the company's  
15 life assurance fund charged to tax under the said Case III bears in that year to the total amount of that income, and

(b) shall not be treated as a charge to tax in respect of life  
20 assurance business for the purposes of paragraph (4) of the said Rule 3.

(5) The exemption from tax conferred by *subsection (1)* of this section shall not exclude any sums from being taken into account as receipts in computing profits or gains or losses for any purpose  
25 of the Income Tax Acts; and an assurance company shall not, by virtue of *subsection (2)* of this section, be entitled to any relief under section 2 of the Finance Act, 1945 (No. 20 of 1945), in respect of losses on its pension annuity business or on its general annuity business.

(6) For the purposes of this section "general annuity business"  
30 means any annuity business which is not pension annuity business, and any division to be made between the two classes of business shall be made on the principle of referring to pension annuity business any premiums falling within *subsection (7)* of this section,  
35 together with the part resulting therefrom of the company's annuity fund and liability for annuities, and of dealing with other incomings and outgoings accordingly:

Provided that a division as at the commencement of the year beginning on the 6th day of April, 1958, or any earlier time may  
40 be made by apportionment according to the company's liability at that time on contracts then falling within *paragraph (b)* of *subsection (7)* of this section and on other annuity contracts.

(7) The premiums to be referred to pension annuity business are those payable under contracts falling (at the time when the  
45 premium is payable) within one or other of the following descriptions:

(a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to tax in respect of relevant earnings (as defined in *section 38*  
50 of this Act) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Revenue Commissioners under that section; and

(b) any contract with the trustees or other persons having the management of a superannuation fund within the meaning of section 32 of the Finance Act, 1921, or  
55 or of a scheme approved under *section 38* of this Act, being a contract which—

(i) was entered into for the purposes only of that fund or scheme or, in the case of a fund part only of which is approved under the said section 32, then for the purposes only of that part of that fund,  
60 and

- (ii) (in the case of a contract entered into or varied after the coming into force of this section) is so framed that the liabilities undertaken by the assurance company under the contract correspond with liabilities against which the contract is intended to secure the fund (or the relevant part of it) or scheme. 5

(8) This section shall be construed in accordance with section 237 of the Income Tax Act, 1918; and for the purposes of this section "annuity business" means the business of granting annuities on human life and "premium" includes any consideration for an annuity. 10

(9) The following transitional provisions shall have effect for the purposes of subsection (2) of this section :

- (a) where tax for any year of assessment is chargeable on the amount of the profits for a year falling wholly or partly before the 6th day of April, 1958, that amount shall be computed as if subsections (1) and (5) of this section had had effect for the whole of that year; and 15
- (b) where, in arriving at the amount on which tax is chargeable for any year of assessment, it is necessary to divide and apportion profits or gains or losses for a period for which accounts have been made up and which falls wholly or partly before the 6th day of April, 1958, the profits or gains or losses for such period shall be computed as if subsections (1) and (5) of this section had had effect for the whole of the period. 20 25

Supplementary provisions for Part VI.

41.—(1) Relief shall not be given under section 39 of this Act in respect of a qualifying premium except on a claim made to and allowed by the inspector of taxes, but any person aggrieved by any decision of the inspector of taxes on any such claim may, on giving notice in writing to the said inspector within twenty-one days after the notification to him of the decision, appeal to the Special Commissioners. 30

(2) The Special Commissioners shall hear and determine an appeal to them under subsection (1) of this section as if it were an appeal to them against an assessment to income tax and the provisions of the Income Tax Acts relating to the re-hearing of an appeal or the statement of a case for the opinion of the High Court on a point of law, shall, with the necessary modifications, apply accordingly. 35 40

(3) The Revenue Commissioners may make regulations prescribing the procedure to be adopted in giving effect to this Part of this Act in so far as such procedure is not otherwise provided for and, without prejudice to the generality of the foregoing provision, may by such regulations— 45

- (a) prescribe the manner and form in which claims for relief from or repayment of tax are to be made,
- (b) prescribe the time limit for the making of any such claim as aforesaid, 50
- (c) require the trustees or other persons having the management of an approved trust scheme to deliver from time to time such information and particulars as the Revenue Commissioners may reasonably require for the purposes of this Part of this Act, and 55
- (d) apply for purposes of this Part of this Act or of the regulations any provision of the Income Tax Acts (with or without modifications).

(4) If any person, for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Part of this Act, knowingly makes any false statement or false representation, he shall be liable to a penalty of five hundred pounds.

## PART VII.

### RELIEF FROM DOUBLE TAXATION : INCOME TAX, SUR-TAX, CORPORATION PROFITS TAX AND DEATH DUTIES.

42.—(1) If the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of income tax, sur-tax or corporation profits tax and any taxes of a similar character, imposed by the laws of the State or by the laws of that territory, and that it is expedient that those arrangements should have the force of law, then, subject to the provisions of this Part of this Act, the arrangements shall, notwithstanding anything in any enactment, have the force of law.

Agreements for relief from double taxation of income.

(2) The provisions of the *Second Schedule* to this Act—

(a) shall have effect where arrangements which have the force of law by virtue of this section provide that tax payable under the laws of the territory concerned shall be allowed as a credit against tax payable in the State,

(b) in relation to the convention between the Government and the Government of the United States of America which was given the force of law by section 12 of the Finance Act, 1950 (No. 18 of 1950), shall be substituted for the provisions contained in Part II of the *Second Schedule* to that Act, and

(c) in relation to the agreement between the Government and the Government of Canada which was given the force of law by section 14 of the Finance Act, 1955 (No. 13 of 1955), be substituted for the provisions contained in Part II of the *Second Schedule* to that Act.

(3) Any arrangements to which the force of law is given under this section may include provision for relief from tax for periods before the passing of this Act or before the making of the arrangements and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.

(4) In subsection (4) of section 13 of the Finance Act, 1950, references to a dividend paid before the passing of that Act shall include references to a dividend paid before the making by the Government of an order to which *subsection (1)* of this section relates, and the said subsection (4) shall be construed accordingly.

(5) For the purposes of *subsection (1)* of this section, arrangements made with the head of a foreign state shall be regarded as made with the government thereof.

43.—The necessary apportionments as respects corporation profits tax shall be made where arrangements having the force of law by virtue of *section 42* of this Act apply to the unexpired portion of an accounting period current at a date specified by the arrangements, and any such apportionment shall be made in proportion to the number of months or fractions of months in the part of the relevant accounting period before the said date and in the remaining part thereof respectively.

Apportionments.

44.—(1) If the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of estate duty payable under the laws of the State and any duty of a similar character imposed 5 under the laws of the State or under the laws of that territory, and that it is expedient that those arrangements should have the force of law, the arrangements shall, notwithstanding anything in any enactment, have the force of law.

(2) Where arrangements have the force of law by virtue of 10 this section—

(a) subsection (4) of section 7 of the Finance Act, 1894, shall not have effect in relation to duty to which the arrangements apply chargeable under the laws of the territory concerned, and 15

(b) if the territory concerned is one to which section 20 of the Finance Act, 1894, applies, no allowance shall be made under that section in respect of duty to which the arrangements apply chargeable under the laws of that territory. 20

(3) Any arrangements to which the force of law is given under this section may include provision for relief from duty in the case of deaths occurring before the passing of this Act or before the making of the arrangements and provisions as to property which is not itself subject to double duty, and the provisions of this 25 section shall have effect accordingly.

(4) For the purposes of *subsection (1)* of this section, arrangements made with the head of a foreign state shall be regarded as made with the government thereof.

Regulations.

45.—The Revenue Commissioners may from time to time make 30 regulations generally for carrying out the provisions of this Part of this Act or any arrangements having the force of law thereunder and may, in particular, but without prejudice to the generality of the foregoing, by those regulations provide—

(a) for securing that relief from taxation imposed by the laws 35 of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled thereto, and

(b) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with any 40 such arrangements, not been deducted and it is discovered that the arrangements do not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments. 45

Disclosure of  
information.

46.—Where any arrangements have the force of law by virtue of this Part of this Act, the obligation as to secrecy imposed by any enactment shall not prevent the Revenue Commissioners or any authorised officer of the Revenue Commissioners from disclosing to any authorised officer of the government with which the 50 arrangements are made such information as is required to be disclosed under the arrangements.

Supplementary.

47.—(1) Any order made under this Part of this Act may be revoked by a subsequent order and any such revoking order may contain such transitional provisions as appear to the Government 55 to be necessary or expedient.

(2) Where an order is proposed to be made under this Part of this Act, a draft thereof shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

- 5 48.—For the purposes of section 15 of the Finance Act, 1951 (No. 15 of 1951), an arrangement made with the head of a foreign state shall be regarded as made with the government thereof.

Amendment of section 15 of Finance Act, 1951.

## PART VIII.

### 10 RECOVERY OF TAXES AND AMENDMENT OF FINANCE (MISCELLANEOUS PROVISIONS) ACT, 1956: INCOME TAX, SUR-TAX AND CORPORATION PROFITS TAX.

- 15 49.—(1) Without prejudice to any other means by which payment of sums due in respect of income tax, sur-tax or corporation profits tax may be enforced, an officer of the Revenue Commissioners, authorised by them for the purposes of this subsection, may sue in his own name in the High Court for the recovery of any sum due in respect of any of those taxes, as a debt due to the Minister for Finance for the benefit of the Central Fund, from the person charged therewith or from his executors or administrators or from any person from whom the sum in question is collectable, whether the person so charged was so charged before or after the passing of this Act, and the proceedings may be commenced by summary summons.

Proceedings in the High Court in respect of taxes.

- 25 (2) If an officer who has commenced proceedings pursuant to this section, or who has continued the proceedings by virtue of this subsection, dies or otherwise ceases for any reason to be an officer authorised for the purposes of subsection (1) of this section—

- 30 (a) the right of such officer to continue the proceedings shall cease and the right to continue them shall vest in such other officer so authorised as may be nominated by the Revenue Commissioners,

- 35 (b) where such other officer is nominated under paragraph (a) of this subsection, he shall be entitled accordingly to be substituted as a party to the proceedings in the place of the first-mentioned officer, and

- (c) where an officer is so substituted, he shall give notice in writing of the substitution to the defendant.

- 40 (3) In proceedings pursuant to this section, a certificate signed by a Revenue Commissioner certifying the following facts, namely, that a person is an officer of the Revenue Commissioners and that he has been authorised by them for the purpose of subsection (1) of this section, shall be evidence until the contrary is proved of those facts.

- 45 (4) In proceedings pursuant to this section, a certificate signed by a Revenue Commissioner certifying the following facts, namely, that the plaintiff has ceased to be an officer of the Revenue Commissioners authorised by them for the purposes of subsection (1) of this section, that another person is an officer of the Revenue Commissioners, that such other person has been authorised by them for the purposes of subsection (1) of this section and that he has been nominated by them, in relation to the proceedings, for the purposes of subsection (2) of this section, shall be evidence until the contrary is proved of those facts.

- (5) In proceedings pursuant to this section—

- 55 (a) a certificate signed by an inspector of taxes certifying the fact that before the institution of the proceedings a

stated sum for income tax became due and payable by the defendant under an assessment which had become final and conclusive, and

- (b) a certificate signed by a collector of income tax certifying the following facts, namely, that he is the collector 5  
duly authorised to collect the said stated sum, that before the institution of the proceedings payment of the said stated sum was duly demanded from the defendant and that the said stated sum or a stated part thereof remains due and payable by the defendant, 10

shall be evidence until the contrary is proved of those facts.

(6) In proceedings pursuant to this section—

- (a) a certificate signed by the Clerk to the Special Commissioners certifying the following facts, namely, that before the institution of the proceedings a stated sum 15  
for sur-tax became due and payable by the defendant under an assessment which had become final and conclusive and that before the institution of the proceedings payment thereof was duly demanded from the defendant, and 20

- (b) a certificate signed by the Accountant-General of Revenue certifying the fact that the said stated sum or a stated part thereof remains due and payable by the defendant,

shall be evidence until the contrary is proved of those facts. 25

(7) In proceedings pursuant to this section—

- (a) a certificate signed by an officer of the Revenue Commissioners certifying the following facts, namely, that before the institution of the proceedings a stated sum for corporation profits tax became due and payable by 30  
the defendant under an assessment which had become final and conclusive and that before the institution of the proceedings payment thereof was duly demanded from the defendant, and

- (b) a certificate signed by the Accountant-General of Revenue 35  
certifying the fact that the said stated sum or a stated part thereof remains due and payable by the defendant,

shall be evidence until the contrary is proved of those facts.

- (8) (a) Each of the following provisions of this section shall be a relevant provision of this section for the purposes of 40  
this subsection :

- (i) subsection (3),
- (ii) subsection (4),
- (iii) paragraph (a) of subsection (5),
- (iv) paragraph (b) of subsection (5), 45
- (v) paragraph (a) of subsection (6),
- (vi) paragraph (b) of subsection (6),
- (vii) paragraph (a) of subsection (7),
- (viii) paragraph (b) of subsection (7).

- (b) In proceedings pursuant to this section, a certificate 50  
certifying the fact or facts referred to in a relevant provision and purporting to be signed as specified in that provision may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by a person holding, at the time of the 55  
signature, the office or position indicated in the certificate as the office or position of the person signing.

(9) All or any of the sums due from any one person in respect of any one or more of the taxes mentioned in *subsection (1)* of this section may be included in the same summons.

(10) The provisions of *subsection (2)* of section 27 of the Finance Act, 1946 (No. 15 of 1946), shall apply to proceedings pursuant to this section as if those provisions were in terms made applicable thereto.

(11) Subject to this section, the rules of the High Court for the time being applicable to civil proceedings commenced by summary summons shall apply to proceedings pursuant to this section.

50.—(1) In this section "the principal section" means section 7 of the Finance Act, 1923 (No. 21 of 1923). Extension of section 7 of Finance Act, 1923.

(2) Subject to *subsection (3)* of this section, *subsections (1) and (2)* of the principal section shall apply in relation to the recovery of sur-tax and corporation profits tax, whether assessed before or after the passing of this Act, as they apply in relation to the recovery of income tax.

(3) In any application of *subsection (1)* of the principal section in relation to the recovery of sur-tax or corporation profits tax, that *subsection* shall have effect with the substitution of "an officer of the Revenue Commissioners, authorised by them for the purposes of this subsection," for "the Collector by whom the sum so in default is collectable."

(4) Where an order which was made before the passing of this Act under section 12 of the Court Officers Act, 1945 (No. 25 of 1945), contains a reference to levy under a certificate issued under the principal section, that reference shall be construed as including a reference to levy under a certificate issued under the principal section as extended by this section.

51.—(1) In this section "the Act" means the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956). Amendment of Finance (Miscellaneous Provisions) Act, 1956.

(2) Subject to *subsection (3)* of this section, section 10 of the Act is hereby amended as follows:

(a) in the definition of "year of claim", "ten" shall, except in relation to *subsection (6)* of section 12 of the Act, be substituted for "five",

(b) a year of assessment (in this paragraph referred to as the said year) commencing on or after the 6th day of April, 1960, and not later than the 6th day of April, 1969, may, except in relation to *subsection (6)* of section 12 of the Act, be a first year of claim in a case in which none of the three consecutive years of assessment of which the first is the year commencing on the 6th day of April, 1957, is or can be the first year of claim for the purpose of making and proving a claim for the said year under section 12 of the Act,

(c) in the definition of "accounting period", "1966" shall, except in relation to *subsection (10)* of section 13 of the Act, be substituted for "1961",

(d) the definition of "goods" shall include—

- (i) fish produced within the State on a fish farm, and
- (ii) cultivated mushrooms, cultivated within the State.

(3) Relief from income tax shall not be given by virtue of *subsection (2)* of this section in respect of any year of assessment after the year of assessment commencing on the 6th day of April, 1969.

(4) The amendment specified in *paragraph (d)* of *subsection (2)* of this section shall have effect as from the passing of the Act, and relief from tax in relation to the period between such passing and the passing of this Act may be given accordingly either by repayment or otherwise as the Revenue Commissioners consider proper. 5

(5) Subsection (2) of section 15 of the Act is hereby amended, with effect as from the passing of the Act, by the substitution of "body corporate" for "company".

(6) Section 16 of the Act is hereby amended, with effect as from the 6th day of April, 1958, by the insertion after subsection (5) of the following subsection: 10

"(5a) Section 4 of the Finance Act, 1937 (No. 18 of 1937), shall apply in relation to an industrial building allowance as it applies in relation to deductions allowable in respect of wear and tear of machinery or plant." 15

## PART IX.

### STAMP DUTIES.

Agreements as to  
stamp duty  
on certain  
instruments.

52.—(1) The Revenue Commissioners may enter into an agreement with any banker for the composition, in accordance with the following provisions of this section, of the stamp duty chargeable under the heading "Bill of Exchange payable on demand" in the First Schedule to the Stamp Act, 1891, on such instruments— 20

(a) drawn on the banker by his customers on forms supplied by him, or 25

(b) drawn by the banker on himself or another banker,

as may be specified in the agreement.

(2) Any such agreement shall be in such form and terms and shall contain such conditions as the Revenue Commissioners think proper and, in particular, the agreement shall require the banker to deliver to the Revenue Commissioners periodical accounts in respect of the instruments to which it relates giving particulars— 30

(a) of forms supplied by him to his customers with a view to their being completed and issued as such instruments by the customers, and of forms so supplied but returned unused or spoilt, and 35

(b) of such instruments issued by him.

(3) While any such agreement remains in force, any instrument to which it relates and which bears such indication of the payment of stamp duty as the Revenue Commissioners may require shall not be chargeable with stamp duty, but, in lieu thereof and by way of composition, the banker who has entered into the agreement shall pay to the Revenue Commissioners, on the delivery of any account under the agreement, such sums as would, but for the provisions of this section, have been chargeable by way of stamp duty on instruments to which the agreement relates issued during the period to which the account relates, it being assumed for this purpose that the number of those instruments issued by his customers was equal to the number of forms supplied less the number of forms returned as mentioned in *paragraph (a)* of *subsection (2)* of this section. 40 45 50

(4) Where a banker makes default in delivering any account required by any such agreement or in paying the duty payable on the delivery of any such account, he shall be liable to a fine not exceeding fifty pounds for any day during which the default 55

continues and shall also be liable to pay, in addition to the duty, interest thereon, which shall be recoverable in the same manner as if it were part thereof, at the rate of five per cent. per annum from the date when the default begins.

- 5** **53.**—Stamp duty shall not be chargeable on any receipt given in respect of any sum paid to the Irish Land Commission under or consequent upon section 2 of the Irish Church Act Amendment Act, 1881. Termination of stamp duty on certain receipts.
- 10** **54.**—Stamp duty shall not be chargeable on any instrument (including an instrument executed but not stamped before the passing of this Act) where the amount of such duty chargeable thereon, but for this section, would be payable solely out of moneys provided by the Oireachtas. Termination of stamp duty on certain instruments.
- 15** **55.**—Stamp duty shall not be charged on any bond referred to in the First Schedule to the Stamp Act, 1891, under the heading which begins "Bond given pursuant to the directions of any Act". Termination of stamp duty on certain bonds.

## PART X.

### MISCELLANEOUS AND GENERAL.

- 20** **56.**—(1) In this section— Capital Services Redemption Account.
- "the principal section" means section 22 of the Finance Act, 1950 (No. 18 of 1950);
- "the 1957 amending section" means section 25 of the Finance Act, 1957 (No. 20 of 1957);
- 25** "the eighth additional annuity" means the sum charged on the Central Fund under *subsection* (4) of this section;
- "the Minister", "the Account" and "capital services" have the same meanings respectively as they have in the principal section.
- 30** (2) Subsection (4) of the 1957 amending section shall, in relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of March, 1959, have effect with the substitution of "£601,122" for "£598,588".
- (3) Subsection (6) of the 1957 amending section shall have effect with the substitution of "£409,390" for "£416,149".
- 35** (4) A sum of £717,012 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 March, 1959.
- 40** (5) The eighth additional annuity shall be paid into the Account in such manner and at such times in the relevant financial year as the Minister may determine.
- (6) Any amount of the eighth additional annuity, not exceeding £528,332 in any financial year, may be applied towards defraying
- 45** the interest on the public debt.
- (7) The balance of the eighth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

Termination of payments into the Capital Fund.

57.—Subsection (3) of section 4 of the Central Fund Act, 1956 (No. 12 of 1956), shall not apply in relation to Exchequer receipts in respect of Special Import Levy which are received into the Exchequer after the 31st day of March, 1958.

Holding and investment of moneys of Post Office Savings Bank.

58.—(1) The following provisions shall have effect in relation to moneys of the Post Office Savings Bank:

- (a) such moneys, as well as being capable of being held in currency of the State, may also be held in currency of the United States of America or currency of the Dominion of Canada, 10
- (b) such moneys may be invested in any of the following securities:
  - (i) securities of the Government,
  - (ii) securities guaranteed as to capital and interest by the Minister for Finance, 15
  - (iii) stock of the Bank of Ireland,
  - (iv) securities or mortgages of the council of a county, the corporation of a county borough, the corporation of Dun Laoghaire or a harbour authority within the meaning of the Harbours Act, 1946 (No. 9 of 1946), 20
  - (v) securities of the government of Great Britain,
  - (vi) securities of the government of the United States of America,
  - (vii) securities of the government of the Dominion of Canada, 25
- (c) such moneys may also be invested in an interest bearing deposit account with a bank, being a bank in the State, Great Britain, the United States of America or the Dominion of Canada. 30

(2) In subsection (1) of this section "securities" includes stocks and funds.

(3) Subsections (1) and (2) of this section shall be deemed to have come into operation on the 1st day of April, 1958.

Investment of moneys of Savings Certificates Reserve Fund.

59.—Subsection (2) of section 34 of the Finance Act, 1929 (No. 32 of 1929), is hereby amended by the substitution of "investments for the time being authorised for the investment of moneys of the Post Office Savings Bank" for "stocks, funds and securities mentioned in paragraphs (a), (b) and (c) of subsection (1) of section 18 of the Adaptation of Enactments Act, 1922 (No. 2 of 1922), and securities guaranteed as to principal and interest by the Government of Saorstát Éireann". 40

Expenses incurred in connection with management of prize bonds.

60.—(1) The reference in subsection (4) of section 22 of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), to expenses incurred in connection with the management of prize bonds shall be construed as a reference to those expenses as calculated in such manner as may be determined by the Minister for Finance. 45

(2) Sections 2 and 4 of the Bank Act, 1892, as applied by section 19 of the Finance Act, 1937 (No. 18 of 1937), shall not apply in relation to prize bonds. 50

(3) Subsections (1) and (2) of this section shall be deemed to have come into operation on the passing of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956).

61.—Each enactment specified in *column (2)* of the *Third Schedule* to this Act is hereby repealed to the extent specified in *column (3)* of that Schedule as on and from the date specified in *column (4)* of that Schedule. Repeals.

5 62.—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.

63.—(1) This Act may be cited as the Finance Act, 1958.

Short title, construction and commencement.

(2) *Parts I, IV, V and VI* of this Act and the *First Schedule* thereto shall be construed together with the Income Tax Acts.

10 (3) *Part II* of this Act, so far as it relates to duties of customs, shall be construed together with the Customs Acts and, so far as it relates to duties of excise shall be construed together with the Statutes which relate to the duties of excise and the management of those duties.

15 (4) *Parts VII and VIII* of this Act and the *Second Schedule* thereto shall, so far as they relate to income tax (including sur-tax), be construed together with the Income Tax Acts and shall, so far as they relate to corporation profits tax, be construed together with Part V of the Finance Act, 1920, and the enactments  
20 amending or extending that Part.

(5) *Part IX* of this Act shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

25 (6) *Part I* of this Act shall, save as is otherwise expressly provided therein, be deemed to come into force and shall take effect as on and from the 6th day of April, 1958.

(7) *Parts IV and VI* of this Act and the *First Schedule* thereto shall be deemed to come into force and shall take effect as on and from the 6th day of April, 1958.

30 (8) *Part V* of this Act shall come into operation on the 6th day of April, 1959.

(9) 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  
35 enactment, including this Act.

## FIRST SCHEDULE.

Section 39.

### RETIREMENT ANNUITIES (ADJUSTMENTS OF LIMIT ON QUALIFYING PREMIUMS).

#### PART I.

40 *Holders of Pensionable Office or Employment.*

1. Subject to the following paragraphs, in the case of an individual who is the holder of a pensionable office or employment, the proviso to *subsection (1)* of *section 39* of this Act shall have effect with the substitution for the references to five hundred pounds of  
45 references to five hundred pounds less one-tenth of his pensionable emoluments for the year of assessment.

2. Where an individual is the holder of a pensionable office or employment during part only of the year of assessment, then—

- (a) *paragraph 1* of this Schedule shall not apply if the condition in *paragraph (a)* of *subsection (1)* of *section 38* of this Act is not satisfied at any time during that part of the year; but
- (b) if the condition is satisfied at such a time and is also satisfied at a time during the remainder of the year, *paragraph 1* of this Schedule shall apply but for one-tenth there shall be substituted therein such less portion as may be just.

3. For the purposes of this Part of this Schedule, an individual's pensionable emoluments for any year of assessment shall be taken to be the amount, estimated in accordance with the provisions applicable to Schedule E, of any income of his for the year (but not including in the case of a married man income of his wife), being either—

- (a) income arising in respect of remuneration from any pensionable office or employment, or
- (b) income from any property which is attached to or forms part of the emoluments of any pensionable office or employment.

## PART II.

### *Persons born in or before 1917.*

4. Subject to *paragraph 5* of this Schedule, in the case of an individual born at a time specified in the first column of the Table set out below, the proviso to *subsection (1)* of *section 39* of this Act and *Part I* of this Schedule shall have effect with the substitution for the references to five hundred pounds and to the fraction one-tenth of references respectively to such sum and to such percentage as are specified for his case in the second and third columns of the Table.

TABLE.

<i>Year of birth.</i>	<i>Sum.</i>	<i>Percentage.</i>	
1916 or 1917	£550	11 per cent.	35
1914 or 1915	£600	12 per cent.	
1912 or 1913	£650	13 per cent.	
1910 or 1911	£700	14 per cent.	
1909 or any earlier year	£750	15 per cent.	

5. (1) This Part of this Schedule shall not apply in relation to any year of assessment in which the individual, in respect of his past services in any office or employment formerly held by him (not being one in which he served part-time only), either—

- (a) receives any income in respect of a pension payable under or in pursuance of a sponsored superannuation scheme or otherwise purchased or provided for him by another person, or
- (b) has a right under a sponsored superannuation scheme to a pension which is not presently payable, whether because it is suspended or because it is to become payable only at a future time or on the happening of some contingency (but not including a right dependant also on service in an office or employment for the time being held by him).

(2) In this paragraph, "pension" includes any superannuation or other allowance or deferred pay.

## SECOND SCHEDULE.

Section 42.

PROVISIONS AS TO RELIEF FROM INCOME TAX (INCLUDING SUR-TAX)  
AND CORPORATION PROFITS TAX BY WAY OF CREDIT IN RESPECT OF  
FOREIGN TAX.

### 5 *Interpretation.*

1. (1) In this Schedule, except where the context otherwise requires—

“arrangements” means arrangements for the time being in force by virtue of *section 42* of this Act or of *section 12* of the Finance Act, 1950 (No. 18 of 1950), or of *section 14* of the Finance Act, 1955 (No. 13 of 1955);

“income tax” includes sur-tax;

“income”, in relation to corporation profits tax, means profits;

15 “total income” means total income from all sources as estimated in accordance with the provisions of the Income Tax Acts;

“the Irish taxes” means income tax (including sur-tax) and corporation profits tax;

20 “foreign tax” means, in relation to any territory in regard to which arrangements have the force of law, any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements.

(2) Any reference in this Schedule to foreign tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the territory in regard to which the arrangements are made.

### *General.*

2. (1) Subject to the provisions of this Schedule, where, under the arrangements, credit is to be allowed against any of the Irish taxes chargeable in respect of any income, the amount of the Irish taxes so chargeable shall be reduced by the amount of the credit.

(2) The credit to be allowed shall be first applied in reducing the amount of any corporation profits tax chargeable in respect of the income and, so far as it cannot be so applied, in reducing the income tax chargeable in respect thereof.

35 (3) Nothing in this paragraph authorises the allowance of credit against any Irish tax against which credit is not allowable under the arrangements.

### *Requirements as to incorporation and residence.*

40 3. (1) Credit shall not be allowed against corporation profits tax unless the company in respect of whose income the corporation profits tax is chargeable is incorporated by or under the laws of the State.

(2) Credit shall not be allowed against income tax for any year of assessment unless the person in respect of whose income the tax is chargeable is resident in the State for that year.

### *Limit on total credit—corporation profits tax.*

4. The amount of the credit to be allowed against corporation profits tax for foreign tax in respect of any income shall not exceed the corporation profits tax attributable to that income.

*Limit on total credit—income tax.*

5. (1) The amount of the credit to be allowed against income tax for foreign tax in respect of any income shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts, and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at the following rate, that is to say—

(a) in the case of a person whose income is chargeable to income tax but not to sur-tax, a rate ascertained by dividing the income tax payable by that person for that year by the amount of the total income of that person for that year; 10

(b) in the case of a person whose income is chargeable to sur-tax, the sum of the following rates—

(i) the rate which would have been the appropriate rate in his case if his income had been chargeable to income tax but not to sur-tax, and 15

(ii) the rate ascertained by dividing the sur-tax payable by him for that year by the amount of his total income for that year : 20

Provided that where, under the arrangements, credit is not to be allowed against sur-tax for the year, the rate shall be calculated in all cases as in the case of persons whose incomes are chargeable to income tax but not to sur-tax, and where, under the arrangements, credit is not to be allowed except against sur-tax for the year, the rate shall be that ascertained by dividing the sur-tax payable by the person in question for the year by the amount of his total income for the year. 25

(2) For the purpose of determining the said rate, the tax payable by any person for any year shall be computed without regard to any relief in respect of life assurance premiums and without any reduction thereof for any credit allowed or to be allowed under any arrangements having effect by virtue of *section 42* of this Act, but shall be deemed to be reduced by any tax which, otherwise than under Rule 20 of the General Rules, the person in question is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax upon which that person is entitled to charge as aforesaid. 30 35

(3) Where credit for foreign tax falls to be allowed in respect of any income and any relief would, but for the provisions of this subparagraph, fall to be allowed in respect of that income under section 3 of the Finance Act, 1941 (No. 14 of 1941), the said relief shall not be allowed. 40

6. Without prejudice to the provisions of the last preceding paragraph, the total credit to be allowed to a person against income tax for any year of assessment shall not exceed the total income tax payable by the person in question for that year of assessment, less any tax which, otherwise than under Rule 20 of the General Rules, that person is entitled to charge against any other person. 45 50

*Effect on computation of income of allowance of credit.*

7. (1) Subject to the provisions of this paragraph, where credit for foreign tax falls to be allowed against any of the Irish taxes in respect of any income, no deduction for foreign tax (whether in respect of that or any other income) shall be made in computing the amount of that income for the purposes of corporation profits tax. 55

(2) Where the income includes a dividend and, under the arrangements, foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall for the purposes of corporation profits tax, be treated as increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit.

(3) Notwithstanding anything in the preceding provisions of this paragraph, where part of the foreign tax in respect of the income (including any foreign tax which, under *subparagraph* (2) of this paragraph, falls to be treated as increasing the amount of the income) cannot be allowed as a credit against any of the Irish taxes, the amount of the income shall be treated for the purposes of corporation profits tax as reduced by that part of that foreign tax.

8. (1) Where credit for foreign tax falls to be allowed against any of the Irish taxes in respect of any income, the following provisions of this paragraph shall have effect as respects the computation, for the purposes of income tax, of the amount of that income.

(2) Where the income tax payable depends on the amount received in the State, the said amount shall be treated as increased by the amount of the credit allowable against income tax.

(3) Where the last preceding subparagraph does not apply—

(a) no deduction shall be made for foreign tax (whether in respect of the same or any other income), and

(b) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit, but

(c) notwithstanding anything in the preceding provisions of this subparagraph, where any part of the foreign tax in respect of the income (including any foreign tax which, under *clause* (b) of this subparagraph, falls to be treated as increasing the amount of the income) either falls to be allowed as a credit against corporation profits tax, or cannot be allowed as a credit against any of the Irish taxes, the amount of the income shall be treated for the purposes of income tax as reduced by that part of that foreign tax.

(4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in *paragraph* 5 of this Schedule, the preceding provisions of this paragraph shall have effect subject to the following modifications:

(a) for the reference in *subparagraph* (2) to the amount of the credit allowable against income tax, there shall be substituted a reference to the amount of the foreign tax in respect of the income (in the case of a dividend, foreign tax not chargeable directly or by deduction in respect of the dividend being left out of account), and

(b) *clauses* (b) and (c) of *subparagraph* (3) shall not apply,

and subject to those modifications shall have effect in relation to all income in the case of which credit falls to be allowed for foreign tax under any arrangements.

*Special provisions as to dividends.*

9. Where, in the case of any dividend, foreign tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the foreign tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend. 5 10

The relevant profits are :

- (a) if the dividend is paid for a specified period, the profits of that period;
- (b) if the dividend is not paid for a specified period, but is paid out of specified profits, those profits; 15
- (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable :

Provided that if, in a case falling under *subparagraph (a)* or *subparagraph (c)* of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said *subparagraph (a)* or the said *subparagraph (c)*, as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph) as is equal to the excess; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on. 20 25 30

10. Where—

- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes, in respect of the dividends, and 35
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide, 40

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide. 45 50

*Miscellaneous.*

11. Credit shall not be allowed under the arrangements against the Irish taxes chargeable in respect of any income of any person if the person in question elects that credit shall not be allowed in respect of that income. 50 55

12. Where, under the arrangements, relief may be given either in the State or in the territory in regard to which the arrangements are made in respect of any income and it appears that the assessment to income tax or to corporation profits tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such additional assessments may be made as are necessary to ensure that the total amount of the income

is assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in the State for payment, any such additional assessment to income tax may be made on the recipient of the income under Case VI of Schedule D.

5 13. (1) Subject to *paragraph 14* of this Schedule, any claim for an allowance by way of credit for foreign tax in respect of any income shall be made in writing to the inspector of taxes not later than six years from the end of the relevant year of assessment, and, if the inspector objects to any such claim, it shall be heard and determined by the Special Commissioners as if it were an appeal to them against an assessment to income tax and the provisions of the Income Tax Acts relating to the re-hearing of an appeal or the statement of a case for the opinion of the High Court on a point of law, shall, with the necessary modifications, apply accordingly.

15 (2) In this paragraph "the relevant year of assessment" means, in relation to credit for foreign tax in respect of any income, the year of assessment for which that income falls to be charged to income tax or would fall so to be charged if any income tax were chargeable in respect thereof.

20 14. Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the State or in the territory in regard to which the arrangements are made, nothing in the Income Tax Acts or in the enactments relating to corporation profits tax limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, as are material in determining whether any, and if so what, credit falls to be given.

90

### THIRD SCHEDULE.

Section 61.

#### ENACTMENTS REPEALED.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)	Date of Repeal (4)
8 & 9 Geo. 5, c. 40	Income Tax Act, 1918.	In paragraph (c) of subsection (1) of section 103, the words "living with her husband, or a married woman whose husband is not accountable for the payment of any tax charged on her,"; section 171; subsections (5) and (6) of section 220; in section 237, the words "married woman,"; Rule 8 of the Rules applicable to Schedule B; Rule 16 of the General Rules.	The 6th day of April, 1958.
10 & 11 Geo. 5, c. 18	Finance Act, 1920.	Section 25.	The 6th day of April, 1958.
No. 14 of 1942.	Finance Act, 1942.	Section 22.	The 1st day of April, 1958.
No. 35 of 1945.	Finance (Miscellaneous Provisions) Act, 1945.	Section 2.	The 1st day of April, 1958.
No. 15 of 1951.	Finance Act, 1951.	Subsection (4) of section 4.	The 6th day of April, 1958.

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*Do hordaíodh ag Dáil Éireann a chlóbhualadh, 7 Bealtaine, 1958.*

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*Introduced by the Minister for Finance.*

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