



AN BILLE AIRGEADAIS, 1981

FINANCE BILL, 1981

Mar a ritheadh ag Dáil Éireann

As passed by Dáil Éireann

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AN BILLE AIRGEADAIS, 1981

FINANCE BILL, 1981

BILL

entitled

AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF 5
CUSTOMS AND INLAND REVENUE (INCLUDING
EXCISE), TO AMEND THE LAW RELATING TO CUS-
TOMS AND INLAND REVENUE (INCLUDING EXCISE)
AND TO MAKE FURTHER PROVISIONS IN CONNEC-
TION WITH FINANCE. 10

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

INCOME TAX, RESOURCE TAX AND CORPORATION TAX

CHAPTER I

Income Tax

15

Amendment of
provisions
relating to
exemption from
income tax.

1.—As respects the year 1981-82 and subsequent years of assess-
ment, the Finance Act, 1980, is hereby amended—

(a) in section 1—

(i) in paragraph (b) of subsection (1), by the substitution
of “a sum equal to twice the specified amount” for 20
“£5,000”, and

(ii) in subsection (2), by the substitution of “£4,000” for
“£3,400” and of “£2,000” for “£1,700”,

and

(b) in section 2—

25

(i) in subsection (3), by the substitution of “a sum equal
to twice the specified amount” for “£10,000”, and

(ii) in subsection (6), by the substitution of “£4,600” for
“£4,000”, of “£5,600” for “£5,000”, of “£2,300” for
“£2,000” and of “£2,800” for “£2,500”, 30

and the said paragraph (b) and the said subsections (2), (3) and (6), as so amended, are set out in the Table to this section.

TABLE

5 (b) an individual makes a claim for the purpose, makes a
return in the prescribed form of his total income for
that year and proves that it does not exceed a sum
equal to twice the specified amount, he shall be enti-
tled to have the amount of income tax payable in
10 respect of his total income for that year, if that amount
would, but for the provisions of this subsection,
exceed a sum equal to 60 per cent. of the amount by
which his total income exceeds the specified amount,
reduced to that sum.

(2) In this section "the specified amount" means—

15 (a) in a case where the individual would, apart from this
section, be entitled to a deduction specified in section
138 (a) of the Income Tax Act, 1967, £4,000, and

(b) in any other case, £2,000.

20 (3) Where an individual to whom this section applies proves
that his total income for a year of assessment for which this
section applies does not exceed a sum equal to twice the specified
amount, he shall be entitled to have the amount of income tax
payable in respect of his total income for that year, if that amount
25 would, but for the provisions of this subsection, exceed a sum
equal to 60 per cent. of the amount by which his total income
exceeds the specified amount, reduced to that sum.

(6) In this section "the specified amount" means—

30 (a) in a case where the individual would, apart from this
section, be entitled to a deduction specified in para-
graph (a) of the said section 138, £4,600:

Provided that, if at any time during the year of
assessment either the individual or his spouse was of
the age of seventy-five years or upwards, "the speci-
fied amount" means £5,600;

35 (b) in any other case, £2,300:

Provided that, if at any time during the year of
assessment the individual was of the age of seventy-
five years or upwards, "the specified amount" means
£2,800.

40 2.—(1) Where a deduction falls to be made from the total income
of an individual for the year 1981-82 or any subsequent year of
assessment in respect of relief to which the individual is entitled under
a provision mentioned in *column (1)* of the Table to this subsection
and the amount of the deduction would, but for this section, be an
45 amount specified in *column (2)* of the said Table, the amount of the
deduction shall, in lieu of being the amount specified in the said
column (2), be the amount specified in *column (3)* of the said Table
opposite the mention of the amount in the said *column (2)*.

Personal reliefs.

TABLE

Statutory provision (1)	Amount to be deducted from total income for 1980-81 (2)	Amount to be deducted from total income for 1981-82 and subsequent years (3)
Income Tax Act, 1967:	£	£
section 138A (additional allowance for widows and others in respect of children)	500	650
section 138B (employee allowance)	400	600
section 141 (incapacitated child)	390	500
Finance Act, 1969:		
section 3 (housekeeper taking care of incapacitated person) ...	330	500
Finance Act, 1971:		
section 11 (blind person) ...	330	400
(both spouses blind)	660	1,000

(2) Section 4 of the Finance Act, 1980, shall have effect subject to the provisions of this section.

(3) The *First Schedule* shall have effect for the purpose of supplementing subsection (1).

Alteration of rates
of income tax.

3.—Section 8 of the Finance Act, 1980, is hereby amended, as respects the year 1981-82 and subsequent years of assessment, by the substitution of the following Table for the Table to the said section:

TABLE

PART I

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £1,000 ...	25 per cent.	the reduced rate
The next £4,500 ...	35 per cent.	the standard rate
The next £2,000 ...	45 per cent.	the higher rates
The next £2,000 ...	55 per cent.	
The remainder ...	60 per cent.	

PART II

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £2,000 ...	25 per cent.	the reduced rate
The next £9,000 ...	35 per cent.	the standard rate
The next £4,000 ...	45 per cent.	the higher rates
The next £4,000 ...	55 per cent.	
The remainder ...	60 per cent.	

Amendment of
section 128
(penalties) of
Income Tax Act,
1967.

4.—Section 128 of the Income Tax Act, 1967, is hereby amended—

(a) in subsection (2), by the substitution for “All penalties under this section” of “All penalties for failure to comply with any provision of regulations under this Chapter”.

(b) in subsection (3)—

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

5 “(a) a person fails to comply with any provision of regulations under this Chapter.”.

and

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

10 “(c) such person continues, during a further period of two or more days, to fail to comply with the provision.”.

and

(c) in paragraph (a) of subsection (4)—

15 (i) by the insertion after “defendant” where it first occurs of “or stated wages sheets or other records or documents were not produced by the defendant or the defendant did not remit stated tax to the collector or did not make a stated deduction or repayment of tax”, and

20 (ii) by the insertion after “or certificate” at the end of the paragraph of “or did not produce those wages sheets or other records or documents or did not remit that tax to the collector or did not make that deduction or repayment of tax”.

25 and the said subsection (2) and the said paragraph (a) of subsection (4), as so amended, are set out in the Table to this section.

TABLE

30 (2) All penalties for failure to comply with any provision of regulations under this Chapter may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in the same manner as in summary proceedings for recovery of any fine or penalty under any Act relating to the excise.

35 (a) a certificate signed by an officer of the Revenue Commissioners which certifies that he has inspected the relevant records of the Revenue Commissioners and that it appears from them that, during a stated period, a stated return, statement, notification or certificate was not received from the defendant or stated wages sheets or other records or documents were not produced by the defendant or the defendant did not remit stated tax to the collector or did not make a stated deduction or repayment of tax shall be evidence until the contrary is proved that the defendant did not during that period send that return, statement, notification or certificate or did not produce those wages sheets or other records or documents or did not remit that tax to the collector or did not make that deduction or repayment of tax.

50 5.—Section 198 (1) of the Income Tax Act, 1967 (inserted by the Finance Act, 1980) is hereby amended by the insertion, after paragraph (a), of the following paragraph:

Amendment of section 198 (apportionment in cases of separate assessments) of Income Tax Act, 1967.

“(aa) any reduction of income tax which falls to be made under section 1 (1) (b) or 2 (3) of the Finance Act, 1980, shall be allocated to the husband and the wife in proportion to the amounts of income tax which, but for the said section 1 (1) (b) or 2 (3), would have been payable by the husband and by the wife.”.

Restriction of relief under section 496 (repayment for interest paid) of Income Tax Act, 1967.

6.—(1) In this section—

“relevant payment” means any sum paid on or after the 6th day of April, 1981, by the Minister for the Environment to an individual under a scheme providing for the payment of a special mortgage subsidy to first-time owner-occupiers of certain houses;

“specified loan or loans” means a loan or loans in relation to which a relevant payment is made;

“relevant tax repayment”, in relation to an individual, means, subject to subsection (3), the amount of tax which, apart from this section, would fall to be repaid to the individual under the provisions (hereafter in this section referred to as “the relevant provisions”) of section 496 of the Income Tax Act, 1967, for a year of assessment on the amount of interest paid on a specified loan or loans by the individual in the year of assessment.

(2) Where, for any year of assessment, in the case of an individual, a relevant tax repayment would fall to be made, that relevant tax repayment shall be reduced by the amount determined by the formula set out in the Table to this subsection, and notwithstanding any other provisions of the Income Tax Acts, the amount of tax as so reduced, and no other amount of tax, shall be repaid under the relevant provisions to the individual on the amount of interest paid by him in the year of assessment on a specified loan or loans.

TABLE

$$(R+S)-P$$

where—

R is the relevant tax repayment,

S is the aggregate amount of any relevant payments made to the individual in the year of assessment or the amount of any relevant payment made to the individual where only one such payment was made in the year of assessment, and

P is—

(a) an amount equal to (R+S), or

(b) the amount of any payment, or the aggregate amount of any payments where more than one payment was made, made by the individual in the year of assessment by way of repayment of the principal of any specified loan or loans or by way of payment of interest on any specified loan or loans.

whichever is the less.

(3) For the purposes of this section, in the case of an individual who, in the year of assessment, in addition to interest on a specified loan or loans, has paid other interest, the amount of the relevant tax repayment shall be the amount determined by the formula—

$$A-B$$

where—

5 A is the amount of tax which, apart from this section, would fall to be repaid to the individual for the year of assessment under the relevant provisions on all interest paid by him in the year of assessment, and

B is the amount of tax which would fall to be repaid to the individual for the year of assessment under the relevant provisions if no interest on a specified loan or loans had been paid by him in the year of assessment.

10 (4) Where a relevant payment is made in respect of any period, that relevant payment shall be deemed for the purposes of this section to be made in the year of assessment into which the period falls:

15 Provided that where the period falls partly into one year of assessment and partly into another year of assessment, the amount of the relevant payment made in respect of that period shall be apportioned to each year of assessment in the proportion which the part of the period falling into each year of assessment bears to the whole of the period and the amount so apportioned to a year of assessment shall be deemed, for the purposes of this section, to be paid in that year of
20 assessment.

7.—Section 17 (2) (inserted by the Finance Act, 1976) of the Finance Act, 1970, is hereby amended, as respects payments made on or after the date of the passing of this Act, by the substitution for paragraph (b) of—

Amendment of section 17 (tax deductions from payments to sub-contractors in the construction industry) of Finance Act, 1970.

25 “(b) a person carrying on a business which includes the erection of buildings or the manufacture, treatment or extraction of materials for use, whether used or not, in construction operations, or

30 (bb) a person who is connected with a company carrying on such a business as is mentioned in paragraph (b) (a person being regarded for the purposes of this paragraph as being so connected if he would be regarded for the purposes of section 16 of the Finance (Miscellaneous Provisions) Act, 1968, as being so connected), or”.

35 8.—Section 7 of, and the Second Schedule to, the Finance Act, 1979, shall have effect, for the purpose of ascertaining the amount of income on which a person is to be charged to income tax for the year 1981–82, as if—

Amendment of section 7 (relief for certain expenditure on residential premises) of Finance Act, 1979.

40 (a) “1981–82” were substituted for “1979–80” in subsection (1), and the following proviso were added to the said subsection:

45 “Provided also that in a case where the claimant is a husband who is assessed to tax in accordance with the provisions of section 194 of the Income Tax Act, 1967, this subsection shall have effect as if ‘£900’ were substituted for ‘£450’.”

and

50 (b) (i) “the period commencing on the 6th day of April, 1981, and ending on the 5th day of April, 1982” were substituted for “the period commencing on the 6th day of April, 1979, and ending on the 5th day of April, 1980” in the definition of “qualifying period” in paragraph 1 of that Schedule, and

55 (ii) “1981–82” were substituted for “1979–80” in paragraph 4 (1) of that Schedule.

Amendment of provisions relating to certain time limits.

9.—The provisions specified hereunder shall, as respects the year 1981–82 and subsequent years of assessment, have effect as if “twenty-four” were substituted for “twelve” in each place where it occurs:

- (a) paragraph (II) of the proviso to subsection (3) of section 81 (taxation of rents under short leases) of the Income Tax Act, 1967. 5
- (b) paragraph (b) of subsection (1) of section 111 (basis of assessment) of the Income Tax Act, 1967.
- (c) subsection (2) of section 553 (allowance to owner of mineral rights for expenses) of the Income Tax Act, 1967. 10
- (d) subsection (2) of section 23 (work in progress at discontinuance) of the Finance Act, 1970.
- (e) the provisos to subsections (1) and (2) of section 11 (charge to income tax on sums received from sale of scheduled mineral assets) of the Finance (Taxation of Profits of Certain Mines) Act, 1974. 15

CHAPTER II

Taxation of Farming Profits

Averaging of farm profits.

10.—The Finance Act, 1974, is hereby amended by the insertion of the following section after section 20A (inserted by the Finance Act, 1978): 20

“20B.—(1) Where an assessment in respect of profits or gains from farming is made on an individual, other than an individual to whom section 16 applies, for any year of assessment (being the year 1981–82 or any subsequent year of assessment), he may upon giving, within 30 days after the date of the notice of assessment, notice in writing to that effect to the inspector, elect to be charged to tax for that year in respect of those profits or gains in accordance with the provisions of subsection (2), and all the provisions of the Income Tax Acts (including, in particular, the provisions relating to appeals against assessments and payments on account) shall apply in relation to the said assessment as if the notice given to the inspector were a notice of appeal against the assessment under section 416 of the Income Tax Act, 1967, and the said assessment shall be amended as necessary so as to give effect to the election so made by the individual: 25 30 35 40

Provided that this subsection shall not apply as respects any year of assessment where for either of the two immediately preceding years of assessment the individual was not charged to tax in respect of profits or gains from farming in accordance with the provisions of section 58 (1) of the Income Tax Act, 1967. 45

- (2) (a) An individual who is to be charged to tax for a year of assessment in respect of profits or gains from farming in accordance with the provisions of this subsection shall be so charged under Case I of Schedule D on the full amount of those profits or gains determined upon a fair and just average of the profits or gains from farming of the 50 55

individual in each of the three years ending on that date in the year immediately preceding the year of assessment to which it has been customary to make up accounts, or where it has not been customary to make up accounts, on the 5th day of April immediately preceding the year of assessment.

(b) Any profits or gains arising to and any loss sustained by the individual in the said three years in the carrying on of farming shall be aggregated for the purposes of this subsection:

Provided that this paragraph shall not apply to a loss sustained prior to the 6th day of April, 1981, and the said loss shall not be aggregated with profits or gains for the purposes of this subsection.

(3) Where, as respects a year of assessment, an individual duly elects in accordance with subsection (1), he shall, subject to subsection (4), be charged to tax for that year and for each subsequent year of assessment, in respect of profits or gains from farming, in accordance with the provisions of subsection (2):

Provided that this subsection shall not apply for any year of assessment in which the individual—

(a) is an individual to whom section 16 applies, or

(b) is not, by virtue of section 15 (3), chargeable to tax on profits or gains from farming.

(4) Where, for a year of assessment, an individual is, by virtue of subsection (3), chargeable to tax in respect of profits or gains from farming in accordance with the provisions of subsection (2) and he was so chargeable for each of the three years of assessment immediately preceding the year of assessment, he may, by notice in writing given to the inspector within six months before the 6th day of July in the said year of assessment, elect to be charged to tax for that year of assessment in accordance with the provisions of section 58 of the Income Tax Act, 1967:

Provided that where, for any year of assessment, in the case of an individual, subsection (3) does not apply by reason of paragraph (a) of the proviso to the said subsection (3), he shall be deemed to be entitled to elect and to have duly elected, as respects that year of assessment, in accordance with this subsection.

(5) Where, as respects a year of assessment, an individual duly elects or is deemed to have elected in accordance with subsection (4)—

- (a) he shall be charged to tax for that year and for each subsequent year of assessment in accordance with the provisions of section 58 of the Income Tax Act, 1967, and 5
- (b) there shall be made such assessment or assessments, if any, as may be necessary to secure that the amount of profits or gains from farming on which he is charged for each of the two years of assessment immediately preceding the year preceding the year of assessment, as respects which the individual elects or is deemed to have elected in accordance with subsection (4), shall be not less than the amount on which he is charged by virtue of subsection (3) in accordance with the provisions of subsection (2) for the said year preceding the year of assessment. 10 15 20
- (6) In determining, for any year of assessment, what capital allowances, balancing allowances or balancing charges fall to be made to or on an individual in taxing a trade of farming in accordance with the provisions of subsection (2), he shall be deemed to be chargeable for that year of assessment in respect of the profits or gains of the said trade in accordance with the provisions of section 58 (1) of the Income Tax Act, 1967. 25
- (7) Nothing in this section shall prejudice or restrict the operation of section 58 (5) of the Income Tax Act, 1967, in any case where a trade of farming is permanently discontinued. 30
- (8) Where, for any year of assessment, a loss is aggregated with profits or gains in accordance with subsection (2) (b), and the amount of the said loss is in excess of the said profits or gains, one-third of the amount of such excess shall be deemed for the purposes of Chapter I of Part XIX of the Income Tax Act, 1967, to be a loss sustained in the trade of farming in the final year of the three years on the average of the profits or gains of which the individual is to be charged to tax for that year of assessment, and any loss so aggregated shall not be eligible for relief under any provision of the Income Tax Acts, apart from this subsection. 35 40 45
- (9) The profits or gains from farming of an individual, on which he is to be charged to tax for any year of assessment by virtue of subsection (3) in accordance with the provisions of subsection (2), shall be deemed to be the profits or gains from farming of that individual in determining his total income for that year for all the purposes of the Income Tax Acts, apart from this section, and any provisions of those Acts relating to the delivery of any return, account (including balance sheet), statement, declaration, book, list or other document or the furnishing of any particulars shall apply as if this section had not been enacted.”. 50 55 60

11.—Section 334 of the Income Tax Act, 1967, is hereby amended, as respects the year 1974-75 and subsequent years of assessment, by the insertion after subsection (2) of the following subsection:

“(2A) Subsection (1) (c) shall apply in respect of the profits of
5 a trade of farming carried on by a charity as if the words after
‘solely to the purposes of the charity’ were deleted.”.

12.—Section 477 of the Income Tax Act, 1967, shall have effect as if in subsection (2) (inserted by the Finance Act, 1980)—

(a) "1981-82" were substituted for "1980-81" in paragraph (a).

(b) "1981" were substituted for "1980", and "1982" were substituted for "1981", in each place where they occur, in paragraph (b).

13.—(1) Where, in computing profits from the trade of farming, a
15 deduction allowed by virtue of section 12 of the Finance Act, 1976,
has effect for the year 1981-82—

(a) section 31 (4) (a) of the Finance Act, 1975 (as applied by section 12 (2) (a) of the Finance Act, 1976), shall apply and have effect as if "less 20 per cent. of its trading profits for that period" were deleted, and

(b) the said section 12 shall have effect as if subsection (2) (c) (inserted by the Finance Act, 1979) had not been enacted.

(2) Where a deduction falls to be made under subsection (2) of section 31A (inserted by the Finance Act, 1976) of the Finance Act, 1975, in relation to the trade of farming for any accounting period which ends on or after the 6th day of April, 1980, the said section 31A shall apply and have effect as respects that accounting period as if in subsection (4) (a) "less 20 per cent. of its trading income for that period" were deleted.

30 CHAPTER III

Resource Tax

14.—Notwithstanding anything in Chapter IV of Part I of the Finance Act, 1980, no assessment to resource tax shall be made in respect of the year 1981-82 or any subsequent year of assessment.

35 CHAPTER IV

Corporation Tax

15.—(1) Section 6 (4) of the Corporation Tax Act, 1976, is hereby amended as respects accounting periods ending on or after the 6th day of April, 1980—

40 (a) in subparagraph (ii) of paragraph (a), by the substitution of
"twelve" for "fifteen", and

(b) in subparagraph (ii) of paragraph (b), by the substitution of "such an interval from the end of that accounting period as is three months less than the interval" for "the like interval from the end of such accounting period as there was".

and the said subparagraphs, as so amended, are set out in the Table to this subsection.

TABLE

- (ii) the second instalment within twelve months from the end of the accounting period or, if it is later, 5 within two months from the making of the assessment.
- (ii) in respect of any subsequent accounting period, within such an interval from the end of that accounting period as is three months less than 10 the interval between the end of the first accounting period for which the company was within the charge to corporation tax and the date on or before which the second instalment of corporation tax for that first accounting period would 15 have become payable if the assessment for that accounting period had been made on the day immediately following the end of that accounting period:

(2) If *subsection (1)* would, but for this subsection, have effect so 20 as to require that the second instalment of corporation tax assessed for an accounting period which, apart from *subsection (1)*, would fall to be paid within a period ending on or after the date of the passing of this Act, should fall to be paid within a period ending on a date earlier than the date of such passing, that second instalment shall, 25 notwithstanding *subsection (1)*, fall to be paid within a period ending on the date of such passing.

(3) *Subsection (1)* shall not have effect in relation to the second instalment of corporation tax assessed for an accounting period which, apart from that subsection, would fall to be paid within a period 30 ending before the date of the passing of this Act.

Amendment of
section 143 (return
of profits) of
Corporation Tax
Act, 1976.

16.—Section 143 of the Corporation Tax Act, 1976, is hereby amended by the substitution of the following subsections for subsections (1) and (2):

“(1) A company may be required by a notice served on it by 35 an inspector or other officer of the Revenue Commissioners to deliver to the officer within the time limited by the notice a return of—

- (a) the profits of the company computed in accordance 40 with this Act—
 - (i) specifying the income taken into account in computing those profits, with the amount from each source,
 - (ii) giving particulars of all disposals giving rise to chargeable gains or allowable losses under the 45 provisions of the Capital Gains Tax Acts and this Act and particulars of those chargeable gains or allowable losses, and
 - (iii) giving particulars of all charges on income to be deducted against those profits for the purpose of 50 the assessment to corporation tax,

and

- (b) the distributions received by the company from companies resident in the State and the tax credits to which the company is entitled in respect of those distributions.

5 (2) A notice under this section may require a return of profits arising in any period during which the company was within the charge to corporation tax together with particulars of distributions received in that period from companies resident in the State and of tax credits to which the company is entitled in respect of
10 those distributions.”.

17.—As respects any relevant accounting period within the meaning of section 38 of that Act, Chapter VI of Part I of the Finance Act, 1980, is hereby amended—

Amendment of
Chapter VI
(manufacturing
companies) of Part I
of Finance Act,
1980.

15 (a) by the insertion in section 39 after subsection (1) of the following subsections:

“(1A) The definition of ‘goods’ contained in subsection (1) shall include—

- (a) fish produced within the State on a fish farm, and
(b) cultivated mushrooms cultivated within the State,

20 in the course of a trade by the company which, in relation to the relevant accounting period, is the company claiming relief under this Chapter in relation to the trade and references in this Chapter to ‘manufactured’ shall be construed—

- 25 (i) in relation to fish, as including references to produced, and
(ii) in relation to mushrooms, as including references to cultivated,

30 and words in this Chapter cognate to ‘manufactured’ shall be construed accordingly.

(1B) The following provisions shall apply, for the purpose of relief under this Chapter, in relation to a company that carries on a trade which consists of or includes the repairing of ships—

35 (a) repairs carried out within the State to a ship shall be regarded as the manufacture within the State of goods, and

40 (b) any amount receivable in payment for such repairs so carried out shall be regarded as an amount receivable from the sale of goods.

45 (1C) (a) In this subsection ‘engineering services’ means design and planning services the work on the rendering of which is carried out in the State in connection with chemical, civil, electrical or mechanical engineering works executed outside the territories of the Member States of the European Communities.

50 (b) Where a company carries on a trade which consists of or includes the rendering of engineering services, the following provisions shall apply for the purpose of relief under this Chapter—

- (i) the rendering within the State of such services shall be regarded as the manufacture within the State of goods, and
- (ii) any amount receivable in payment for such services so rendered shall be regarded as an amount receivable from the sale of goods.

(1D) The inspector may by notice in writing require a company claiming relief from tax by virtue of subsection (1B) or (1C), as the case may be, to furnish him with such information or particulars as may be necessary for the purpose of giving effect to that subsection, and section 41(2) shall have effect as if the matters of which proof is required thereby included the information or particulars specified in a notice under this subsection.”,

and

(b) by the insertion after section 39 of the following section:

“Relief in relation to income from certain trading operations carried on in Shannon Airport.

39A.—(1) In this section—

‘the airport’ has the same meaning as in the Customs-free Airport Act, 1947;

‘company’ means any company carrying on a trade;

‘the EEC Treaty’ means the Treaty establishing the European Economic Community, signed at Rome on the 25th day of March, 1957;

‘the Minister’ means the Minister for Finance;

‘qualified company’ means a company the whole or part of the trade of which is carried on within the airport;

‘relevant trading operations’ means trading operations specified in a certificate given by the Minister under subsection (2);

‘trading operation’ means any trading operation which, apart from this section, is not the manufacture of goods for the purpose of this Chapter but is carried on by a qualified company.

(2) Subject to subsections (5) and (6), the Minister may give a certificate certifying that such trading operations of a qualified company as are specified in the certificate are, with effect from a date to be specified in the certificate, relevant trading operations for the purpose of this section, and any certificate so given shall, unless it is revoked under subsection (4), remain in force until the 31st day of December, 2000:

Provided that—

- (a) any trading operations in respect of which the Minister has given a certificate under section 70(2) of the Corporation Tax Act, 1976, (or a certificate which has effect as if it were a certificate given under that section) shall not be certified as relevant trading operations unless the Minister is satisfied that those operations arise from an initial investment; and

5 (b) in determining what constitutes an initial investment for the purposes of this proviso the Minister shall have regard to the principles for the time being applied by the Commission of the European Communities in accordance with the powers vested in it by Articles 92 to 94 of the EEC Treaty.

10 (3) A certificate under subsection (2) may be given either without conditions or subject to such conditions as the Minister considers proper and specifies therein.

15 (4) Where, in the case of a company in relation to which a certificate under subsection (2) has been given—

(a) the trade of the company ceases or becomes carried on wholly outside the airport, or

20 (b) the Minister is satisfied that the company has failed to comply with any condition subject to which the certificate was given,

the Minister may, by notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the notice.

25 (5) The Minister shall not certify, under subsection (2), that a trading operation is a relevant trading operation unless it is carried on within the airport and falls within one or more of the following classes of trading operations—

30 (a) the repair or maintenance of aircraft,

35 (b) trading operations in regard to which the Minister is of opinion, after consultation with the Minister for Transport, that they contribute to the use or development of the airport,

40 (c) trading operations which are ancillary to any of those operations described in the foregoing paragraphs or to any operation consisting, apart from this section, of the manufacture of goods.

(6) The Minister shall not certify, under subsection (2), that any of the following trading operations is a relevant trading operation—

(a) the rendering of—

45 (i) services to embarking or disembarking aircraft passengers, including hotel, catering, money-changing or transport (other than air transport) services, or

50 (ii) services in connection with the landing, departure, loading or unloading of aircraft,

- (b) the operation of a scheduled air transport service,
- (c) selling by retail,
- (d) the sale of consumable commodities for the fuelling of aircraft or for shipment as aircraft stores.

(7) In the case of a qualified company carrying on relevant trading operations, the following provisions shall apply for the purpose of relief under this Chapter— 10

- (a) the relevant trading operations shall be regarded as the manufacture within the State of goods, and
- (b) any amount receivable in payment for anything sold, or any services rendered, in the course of the relevant trading operations shall be regarded as an amount receivable from the sale of goods.

(8) (a) Where at the end of any relevant accounting period a qualified company has fifty or more full-time employees, the aggregate of all amounts of relevant relief under this Chapter to which the company is entitled for all relevant accounting periods shall not exceed an amount determined in accordance with the principles for the time being applied by the Commission of the European Communities under the powers vested in it by Articles 92 to 94 of the EEC Treaty, and there shall be made such additional assessments or adjustments of assessments as may be required in any case in order to give effect to this subsection. 20 25 30

(b) In this subsection— 35

‘full-time employees’ means, in relation to a qualified company, employees who are employed by the company on a full-time basis in relation to relevant trading operations and the duties of whose employment are such that they are required to devote substantially the whole of their time to the service of the company; 40

‘relevant relief under this Chapter’ means the relief under this Chapter to which a qualified company would not be entitled but for the provisions of subsection (7). 45

(9) (a) The Revenue Commissioners may make regulations for the purposes of giving effect to subsection (8) (a) and to provide for any ancillary or consequential matters. 50

(b) Every regulation made under paragraph (a) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(10) The inspector may by notice in writing require a company claiming relief from tax by virtue of this section to furnish him with such information or particulars as may be necessary for the purpose of giving effect to this section, and section 41(2) shall have effect as if the matters of which proof is required thereby included the information or particulars specified in a notice under this section."

CHAPTER V

Income Tax and Corporation Tax

18.—(1) A payment to which this section applies shall be disregarded for all the purposes of the Tax Acts.

Exemption of payments out of Employers' Temporary Subvention Fund.

(2) This section applies to any payment made, whether before or after the passing of this Act, to an employer in respect of a person employed by him, being a payment out of the fund known as the Employers' Temporary Subvention Fund which was established on the 28th day of August, 1980, and is administered by a committee representative of the Irish Congress of Trade Unions, the Federated Union of Employers and the Confederation of Irish Industry.

19.—Section 34 (3) of the Finance Act, 1973, is hereby amended by the substitution of "an invention which is the subject of a qualifying patent" for "an invention which is the subject of a patent", and the said section 34 (3), as so amended, is set out in the Table to this section.

Amendment of section 34 (exemption from tax of income from patent royalties) of Finance Act, 1973.

TABLE

(3) Where, under section 92 of the Patents Act, 1964, or any corresponding provisions of the law of any other country, an invention which is the subject of a qualifying patent is made, used, exercised or vended by or for the service of the State or the government of the country concerned, the provisions of this section shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence and any sums paid in respect thereof were income from a qualifying patent.

20.—(1) Section 31A (inserted by the Finance Act, 1976) of the Finance Act, 1975, is hereby amended by the substitution of "1981" for "1980"—

Amendment of provisions relating to relief in respect of increase in stock values.

(a) in paragraph (iv) (inserted by the Finance Act, 1979) of the proviso (inserted by the Finance Act, 1977) to subsection (4) (a),

(b) in subsection (7) (inserted by the Finance Act, 1977), and

(c) in subsection (9) (inserted by the Finance Act, 1977) in each place where it occurs,

and the said paragraph, the said subsection (7) (other than the proviso) and the said subsection (9) (other than the proviso), as so amended, 5 are set out in the Table to this subsection.

TABLE

(iv) a deduction shall not be allowed under the provisions of this section in computing a company's trading income for any accounting period which ends on or 10 after the 6th day of April, 1981.

(7) Where in relation to an accounting period a company's opening stock value exceeds its closing stock value, the amount of the excess (in this section referred to as the company's "decrease in stock value") shall, if the accounting period ends on 15 a date before the 6th day of April, 1981, be treated in the computation of the company's trading income for the purposes of corporation tax, as a trading receipt of the company's trade for that accounting period:

(9) In the computation of a company's trading income for the 20 purposes of corporation tax for any accounting period which ends on or after the 6th day of April, 1981, in which there is a decrease in stock value, there shall be treated as a trading receipt of the company's trade for that accounting period the amount (if any) by which A exceeds the aggregate of B and C where— 25

A is the aggregate amount of the company's decreases in stock value in all accounting periods which ended on or after the 6th day of April, 1981,

B is the aggregate amount of the company's increases in stock value in all accounting periods which ended on or after the 6th 30 day of April, 1981, and

C is the aggregate of the amounts which under this subsection are treated as trading receipts of the company's trade for preceding accounting periods:

(2) Section 12 of the Finance Act, 1976, is hereby amended— 35

(a) by the substitution of ", 1980-81 or 1981-82" for "or 1980-81" (inserted by the Finance Act, 1980) in paragraph (c) (inserted by the Finance Act, 1979) of subsection (2),

(b) by the substitution in subsection (3) of "1981-82" for 40 "1980-81" (inserted by the Finance Act, 1980), and

(c) by the substitution of "1981" for "1980" (inserted by the Finance Act, 1980) in each place where it occurs in subsection (5) (inserted by the Finance Act, 1978) and subsection (6) (inserted by the Finance Act, 45 1977),

and the said paragraph, the said subsection (3), the said subsection (5) (other than the proviso) and the said subsection (6) (other than the proviso), as so amended, are set out in the Table 50 to this subsection.

TABLE

(c) Where a deduction allowed by virtue of this section in computing a person's trading profits of a trade for an accounting period has effect for the year 1979-80, 1980-81 or 1981-82, the amount of the deduction shall, notwithstanding any provision to the contrary, be three-fourths of the amount which, apart from this paragraph, would be the amount of the deduction for that accounting period.

(3) Any deduction allowed by virtue of this section in computing a person's trading profits for an accounting period shall not have effect for any purpose of the Income Tax Acts for any year of assessment prior to the year 1974-75 or later than the year 1981-82.

(5) In the computation of a person's trading income for an accounting period in which there is a decrease in stock value and which ends on a date in the period from the 6th day of April, 1976, to the 5th day of April, 1981, the amount of that decrease shall be treated as a trading receipt of the trade for that accounting period:

(6) In the computation of a person's trading income for any accounting period in which there is a decrease in stock value and which ends on or after the 6th day of April, 1981, there shall be treated as a trading receipt of the trade for that accounting period the amount (if any) by which A exceeds the aggregate of B and C

where—

A is the aggregate amount of the person's decreases in stock value in all accounting periods which ended on or after the 6th day of April, 1981,

B is the aggregate amount of the person's increases in stock value in all accounting periods which ended on or after the 6th day of April, 1981, and

C is the aggregate of the amounts which are treated as trading receipts of the person's trade for preceding accounting periods which ended on or after the 6th day of April, 1981:

21.—Section 67 of the Corporation Tax Act, 1976, shall, with any necessary modifications, apply in relation to a distribution to which section 64 of that Act applies, which is made on or after the 6th day of April, 1978, and which is received by a company that is not resident in the State as it applies in relation to a distribution received by an individual.

Extension of section 67 (distributions to non-resident individuals) of Corporation Tax Act, 1976.

22.—Section 152 of the Corporation Tax Act, 1976, is hereby amended, as respects any assessment to income tax which is made on or after the date of the passing of this Act, by the insertion after subsection (3) of the following subsection:

Amendment of section 152 (provisions as to tax under section 151) of Corporation Tax Act, 1976.

“(4) Section 551 (1) of the Income Tax Act, 1967, shall not apply where, by virtue of section 98 (4), there is any discharge or repayment of tax assessed under section 151.”.

CHAPTER VI

Income Tax and Corporation Tax: Relief for Certain Capital Expenditure

Deduction for certain expenditure on construction of rented residential accommodation.

23.—(1) (a) In this section—

“certificate of reasonable cost” means a certificate 5
granted by the Minister for the Environment for the
purposes of this section, stating that the amount spec-
ified in the certificate in relation to the cost of con-
struction of the house to which the certificate relates
appears to him at the time of the granting of the 10
certificate and on the basis of the information avail-
able to him at that time to be reasonable, and section
18 of the Housing (Miscellaneous Provisions) Act,
1979, shall, with any necessary modifications, apply
to a certificate of reasonable cost as if it were a 15
certificate of reasonable value;

“certificate of reasonable value” has the meaning
assigned to it by section 18 of the Housing (Miscel-
laneous Provisions) Act, 1979;

“house” includes any building or part of a building 20
used or suitable for use as a dwelling and any out-
office, yard, garden or other land appurtenant thereto
or usually enjoyed therewith;

“lease”, “lessee”, “lessor” and “premium” have the
meanings assigned to them by Chapter VI of Part IV 25
of the Income Tax Act, 1967;

“qualifying lease”, in relation to a house, means a
lease of the house the consideration for the grant of
which consists—

- (i) solely of periodic payments all of which are, or 30
fall to be treated as, amounts by way of rent for
the purposes of Chapter VI of Part IV of the
Income Tax Act, 1967, or
- (ii) of payments of the kind mentioned in *paragraph*
(i) together with a payment by way of premium 35
which does not exceed 10 per cent. of the relevant
cost of the house:

Provided that the lease shall not be a qualifying
lease if the terms of the lease contain any provisions
enabling the lessee or any other person, directly or 40
indirectly, at any time to acquire any interest in the
house for a consideration which is less than that which
might be expected to be given at that time for the
acquisition of the interest if the negotiations for that
acquisition were conducted in the open market at 45
arm's length;

“qualifying period” means the period commencing on
the 29th day of January, 1981, and ending on the 31st
day of March, 1984;

“qualifying premises” means a house— 50

- (i) which is used solely as a dwelling, and
 - (ii) the total floor area of which—
 - (I) is not less than 30 square metres and not more than 75 square metres in the case where the house is a separate self-contained flat or maisonette in a building of two or more storeys, or
 - (II) is not less than 35 square metres and not more than 125 square metres in any other case, and
 - (iii) in respect of which there is in force either a certificate of reasonable cost the amount specified in which in respect of the cost of construction of the house to which the certificate relates is not less than the expenditure actually incurred on such construction or, if it is a new house provided for sale, a certificate of reasonable value wherein the amount for which the house to which the certificate relates is stated to represent reasonable value is not less than the net price paid for the house on the sale in respect of which the certificate is granted, and
 - (iv) which, without having been used, is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (save for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;
- “relevant cost”, in relation to a house, means, subject to *subsection (3)*, an amount equal to the aggregate of—
- (i) the expenditure incurred on the acquisition of, or of rights in or over, any land on which the house is constructed, and
 - (ii) the expenditure actually incurred on the construction of the house;
- “relevant period”, in relation to a qualifying premises, means the period of ten years beginning with the date of the first letting of the premises under a qualifying lease;
- “total floor area” means the total floor area of a house measured in the manner referred to in section 4 (2) (b) of the Housing (Miscellaneous Provisions) Act, 1979.
- (b) (i) For the purposes of determining, in relation to any claim under *subsection (2)*, whether and to what extent expenditure incurred on the construction of a qualifying premises is incurred during the qualifying period, only such an amount of that expenditure as is determined by

the inspector, according to the best of his knowledge and judgment, to be properly attributable to work on the construction of the premises which was actually carried out during the qualifying period shall be treated as having been incurred 5 during that period.

(ii) Where, by virtue of *subsection (4)*, expenditure on the construction of any premises includes expenditure on the development of any land, *subparagraph (i)* shall have effect, with any necessary modifications, as if the references therein to the construction of any premises were references to the development of such land. 10

(iii) Any amount which, by virtue of *subparagraph (i)* or *(ii)*, is determined by the inspector may be amended by the Appeal Commissioners or by the Circuit Court on the hearing, or the rehearing, of an appeal against that determination. 15

(c) For the purposes of this section, other than for the purposes mentioned in *paragraph (b) (i)*, expenditure incurred on the construction of a qualifying premises shall be deemed to have been incurred on the date of the first letting of the premises under a qualifying lease. 20

(d) A person shall be regarded for the purposes of this section as connected with another person if he would be so regarded for the purposes of section 16 of the Finance (Miscellaneous Provisions) Act, 1968. 25

(2) Where a person, having made a claim in that behalf, proves that he has incurred expenditure on the construction of a qualifying premises, he shall be entitled, in computing for the purposes of subsection (4) of section 81 of the Income Tax Act, 1967, the amount of a surplus or deficiency in respect of the rent from the said premises, to a deduction of so much (if any) of the expenditure as falls to be treated under any of the provisions of this section as having been incurred by him in the qualifying period and all the provisions of Chapter VI of Part IV of the said Act shall apply as if the said deduction were a deduction authorised by the provisions of subsection (5) of the said section 81: 30 35

Provided that where any premium or other sum which is payable, directly or indirectly, under a qualifying lease, or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, or any part of such premium or sum, is not, or is not treated as, an amount by way of rent for the purposes of the said section 81, the expenditure falling to be treated as having been incurred in the qualifying period on the construction of the qualifying premises to which the qualifying lease relates shall be deemed, for the purposes of this subsection, to be reduced by the lesser of— 40 45

(a) the amount of the said premium or sum, or as the case may be, the said part of such premium or sum, and 50

(b) the amount which bears to the amount mentioned in *paragraph (a)* the same proportion as the amount of the expenditure actually incurred on the construction of the 55

qualifying premises which falls to be treated under *subsection (1) (b)* as having been incurred in the qualifying period bears to the whole of the expenditure incurred on the said construction.

5 (3) (a) Where a qualifying premises forms part of a building or is one of a number of buildings in a single development, or forms part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary—

10 (i) of the expenditure incurred on the construction of the said building or buildings, and

(ii) of the amount which would be the relevant cost in relation to the said building or buildings if the building or buildings, as the case may be, were a single qualifying premises,

15 for the purposes of determining the expenditure incurred on the construction of the qualifying premises and the relevant cost in relation to the qualifying premises.

20 (b) Any apportionment required by this paragraph shall be made by the inspector according to the best of his knowledge and judgment.

(c) An apportionment made under *paragraph (a)* may be amended by the Appeal Commissioners or by the Circuit Court on the hearing, or the rehearing, of an appeal against any deduction granted on the basis of the apportionment.

25 (4) In this section references to the construction of any premises shall be construed as including references to the development of the land on which the premises are constructed or which is used in the provision of gardens, grounds, access or amenities in relation to the premises and, without prejudice to the generality of the foregoing, as including, in particular—

(a) demolition or dismantling of any building on the land,

35 (b) site clearance, earth moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works,

(c) walls, power-supply, drainage, sanitation and water supply, and

40 (d) the construction of any outhouses or other buildings or structures for use by the occupants of the premises or for use in the provision of amenities for the occupants.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs:

45 (a) the house ceases to be a qualifying premises, or

(b) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

the person who, before the occurrence of the event, received or was entitled to receive a deduction under *subsection (2)* in respect of expenditure incurred on the construction of the qualifying premises shall be deemed to have received on the day before the day of the occurrence an amount by way of rent from the qualifying premises 5 equal to the amount of the deduction.

- (6) (a) Where the event mentioned in *subsection (5) (b)* occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the said house passes shall be treated 10 as having incurred in the qualifying period an amount of expenditure on the construction of the said house equal to the amount which, under any of the provisions of this section apart from the proviso to *subsection (2)*, the said lessor was treated as having incurred in the qualifying 15 period on the construction of the said house:

Provided that, in the case of a person who purchases such a house, the amount so treated as having been incurred by him shall not exceed the relevant price paid 20 by him on the sale.

- (b) For the purposes of this subsection and *subsection (7)*, the relevant price paid by a person on the sale of a house is the amount which bears to the net price paid by him on that sale the same proportion as the amount of the expenditure actually incurred on the construction of the house 25 which falls to be treated under *subsection (1) (b)* as having been incurred in the qualifying period bears to the relevant cost in relation to that house.

- (7) (a) Subject to *paragraph (b)*, where expenditure is incurred on the construction of a house and before the house is used 30 it is sold, the person who buys the house shall be treated for the purposes of this section as having incurred in the qualifying period expenditure on the construction of the house equal to the amount of such expenditure which falls to be treated under *subsection (1) (b)* as having been 35 incurred in the qualifying period or the relevant price paid by him on the sale, whichever is the lower:

Provided that where the house is sold more than once before it is used, the provisions of this subsection shall have effect only in relation to the last of those sales. 40

- (b) Where expenditure is incurred on the construction of a house by a person carrying on a trade or part of a trade which consists, as to the whole or any part thereof, of the construction of buildings with a view to their sale and the house, before it is used, is sold in the course of that trade 45 or, as the case may be, that part of that trade, the person who buys the house shall be treated, for the purposes of this section, as having incurred in the qualifying period expenditure on the construction of the house equal to the relevant price paid by him on the said sale (hereafter in 50 this paragraph referred to as "the first sale") and, in relation to any subsequent sale or sales of the house before the house is used, *paragraph (a)* shall have effect as if the reference to the amount of expenditure which falls to be treated as having been incurred in the qualifying period 55 were a reference to the said relevant price paid on the first sale.

5 (8) A house shall not be a qualifying premises if it is occupied as a dwelling by any person who is connected with the person who is entitled, in relation to the expenditure incurred on the construction of the house, to a deduction under *subsection (2)*, and the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(9) A house shall not be a qualifying premises unless—

10 (a) it complies with such conditions, if any, as may be determined by the Minister for the Environment from time to time for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards of construction of houses and the provision of water, sewerage and other services therein, and

15 (b) persons authorised in writing by the Minister for the Environment for the purposes of this section are permitted to inspect it at all reasonable times upon production, if so requested by a person affected, of their authorisations.

20 (10) Paragraph 5 of Schedule 1 to the Capital Gains Tax Act, 1975, shall have effect as if a deduction under *subsection (2)* were a capital allowance and as if any amount by way of rent deemed to have been received by a person under *subsection (5)* were a balancing charge.

25 (11) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under *section 24*, other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979, in like manner as an appeal would lie against an assessment to income tax or corporation tax and the provisions of the Tax Acts relating to appeals shall apply and have effect accordingly.

30 24.—(1) This section applies to expenditure incurred on the conversion into two or more houses of a building which, prior to the conversion, had not been in use as a dwelling or had been in use as a single dwelling.

Provisions
supplementary to
section 23.

35 (2) As respects expenditure to which this section applies, *section 23* shall, with any necessary modifications, apply as if the expenditure incurred on the conversion of the building into two or more houses had actually been incurred on the construction of the houses and as if—

40 (a) in *paragraph (ii)* of the definition of "qualifying lease", the reference to the relevant cost of a house were a reference to the market value of the house at the time the conversion is completed:

45 Provided that, in the case of a house which is a part of a building and which is not saleable apart from the building of which it is a part, the market value of the house at the time the conversion is completed shall, for the purposes of this paragraph, be taken to be an amount which bears to the market value of the building at that time the same proportion as the total floor area of the house bears to the total floor area of the building,

50 (b) in *paragraph (iv)* of the definition of "qualifying premises", "subsequent to the incurring of the expenditure on the conversion" were inserted after "without having been used",

- (c) the definition of "relevant cost" and *subsections (6) (b) and (7) (b)* were deleted,
- (d) the references in *subsection (3)* of that section to relevant cost were deleted,
- (e) the references in *subsections (6) (a) and (7) (a)* to the relevant price paid on the sale were references to—
 - (i) the net price paid on the sale, or
 - (ii) in case only a part of the expenditure to which this section applies falls to be treated, for the purposes of *subsection (2)* of that section, as having been incurred in the qualifying period, the amount which bears to the said net price the same proportion as that part bears to the whole of that expenditure,
- (f) the references in *subsection (7) (a)* to a house being used were references to the house being used subsequent to the incurring of the expenditure on the conversion, and
- (g) in *subsection (9) (a)*, "section 5" were substituted for "section 4".

(3) This section shall not apply in the case of a conversion unless planning permission in respect of the conversion has been granted under the Local Government (Planning and Development) Acts, 1963 and 1976.

Allowance for certain expenditure on construction of multi-storey car-parks.

25.—(1) In this section—

"multi-storey car-park" means a building or structure consisting of three or more storeys wholly in use for the purpose of providing, for members of the public generally without preference for any particular class of person, upon payment of an appropriate charge, parking space for mechanically propelled vehicles;

"relevant expenditure" means capital expenditure incurred on or after the 29th day of January, 1981, and before the 1st day of April, 1984, on the construction of a multi-storey car-park.

(2) All the provisions of the Tax Acts (other than section 25 of the Finance Act, 1978) relating to the making of allowances or charges in respect of capital expenditure on the construction of an industrial building or structure shall apply to relevant expenditure as if it were expenditure incurred on the construction of a building or structure in respect of which an allowance falls to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter II of Part XV or under Chapter I of Part XVI of the Income Tax Act, 1967, by reason of its use for a purpose specified in section 255 (1) (a) of that Act.

Allowance for certain capital expenditure on roads, bridges, etc.

26.—(1) In this section—

"chargeable period" and "chargeable period or its basis period" have the meanings assigned to them by paragraph 1 (2) of the First Schedule to the Corporation Tax Act, 1976;

"qualifying period" means the period commencing on the 29th day of January, 1981, and ending on the 31st day of March, 1984;

"relevant agreement" means an agreement between a road authority and another person under section 9 of the Local Government (Toll Roads) Act, 1979, by virtue of which that other person incurs relevant expenditure;

5 "relevant expenditure" means capital expenditure incurred by a person during the qualifying period by virtue of a relevant agreement, but does not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any provision of the Tax Acts other than this section;

10 "relevant income" means income which arises to a person by virtue of a relevant agreement;

"road authority" has the meaning assigned to it by the Local Government (Toll Roads) Act, 1979.

(2) Where a person, having made a claim in that behalf, proves, as
15 respects a chargeable period, that relevant income was receivable by him in that chargeable period or its basis period and that he has incurred relevant expenditure, he shall, subject to *subsection (3)*, be entitled, for the purpose only of ascertaining the amount (if any) of relevant income on which he is to be charged to tax for the chargeable
20 period, to an allowance equal to one-half of the relevant expenditure:

Provided that the aggregate amount of all allowances made to that person under this section in relation to any relevant expenditure shall not exceed an amount equal to one-half of that expenditure.

(3) Where an allowance to which a person is entitled under this
25 section cannot be given full effect for any chargeable period by reason of a want or deficiency of relevant income, then (so long as the person has relevant income), the amount unallowed shall be carried forward to the succeeding chargeable period and the amount so carried forward shall be treated for the purposes of this section, including any further
30 application of this subsection, as the amount of a corresponding allowance for that period.

(4) An appeal to the Appeal Commissioners shall lie on any question arising under this section in like manner as an appeal would lie against an assessment to income tax or corporation tax and the provisions of
35 the Tax Acts relating to appeals shall apply and have effect accordingly.

27.—Section 254 (1) (inserted by the Corporation Tax Act, 1976) of the Income Tax Act, 1967, is hereby amended—

Amendment of
section 254
(industrial building
allowance) of
Income Tax Act,
1967.

(a) by the substitution for paragraph (b) of the following
40 paragraph:

"(b) The lessee referred to in paragraph (a) is a lessee occupying the building or structure on the construction of which the expenditure was incurred and who so occupies it—

45 (i) under a relevant lease, or

(ii) as respects such expenditure incurred after the
28th day of January, 1981, under a lease to which a relevant lease granted to the Industrial Development Authority, the Shannon Free Airport Development Company Limited or Údarás na
50 Gaeltachta is reversionary."

- (b) by the substitution for the definition of "appropriate chargeable period" in paragraph (c) of the following definition:

"appropriate chargeable period" means, in relation to any person who has incurred expenditure on the construction of a building or structure, the chargeable period related to the expenditure or, if it is later, the chargeable period related to the event (which shall be regarded as an event within the meaning of paragraph 1 (2) (b) of the First Schedule to the Corporation Tax Act, 1976), such event being—

- (i) the commencement of the tenancy in a case in which the first use to which the building or structure is put is a use by a person occupying it by virtue of a tenancy to which the relevant interest is reversionary, or
- (ii) in a case to which paragraph (b) (ii) refers, the commencement of the tenancy to which the relevant interest is reversionary;"

and

- (c) by the insertion in paragraph (c) after the definitions of "lease" and "lessee" of the following definition:

"relevant lease" means a lease to which the relevant interest is reversionary;"

CHAPTER VII

Profits or Gains from Dealing in or Developing Land

Amendment of section 17 (extension of charge under Case I of Schedule D to certain profits from dealing in or developing land) of Finance (Miscellaneous Provisions) Act, 1968.

28.—In relation to the computation for the purposes of income tax or corporation tax of the profits or gains or losses of any period ending on or after the 6th day of April, 1981, section 17 of the Finance (Miscellaneous Provisions) Act, 1968, is hereby amended by the substitution of the following subsection for subsection (1)—

- "(1) (a) Where, apart from this section, all or some of the activities of a business of dealing in or developing land would not be regarded as activities carried on in the course of a trade within Schedule D but would be so regarded if every disposal of an interest in land included among such activities (including a disposal of an interest in land which, apart from this section, is a disposal of the full interest in the land which the person carrying on the business had acquired) were treated as fulfilling both of the conditions specified in paragraph (b), the business shall be deemed to be wholly a trade within Schedule D or, as the case may be, part of such a trade and the profits or gains thereof shall be charged to tax under Case I of Schedule D accordingly.

- (b) The conditions referred to in paragraph (a) are:

- (i) that the disposal was a disposal of the full interest in the land which the person carrying on the business had acquired, and
- (ii) that the interest disposed of had been acquired by such person in the course of the business."

29.—(1) This section is enacted to prevent the avoidance of tax by persons concerned with dealing in or developing land.

Provisions relating to transactions in land.

5 (2) (a) In relation to the computation for the purposes of income tax or corporation tax of the profits or gains or losses of any period ending on or after the 6th day of April, 1981, Part IV of the Finance (Miscellaneous Provisions) Act, 1968, is hereby amended by the substitution of the following section for section 18:

10 "Computation under Case I of Schedule D of profits or gains from dealing in or developing land.

15 18.—(1) Where a business of dealing in or developing land is, or is to be regarded as, a trade within Schedule D or a part of such a trade, the provisions applicable to Case I of that Schedule shall, as respects the computation of the profits or gains of the business, have effect subject to the subsequent provisions of this section.

20 (2) (a) Any consideration other than rent or an amount treated as rent under section 83 of the Income Tax Act, 1967, for the disposal of an interest in any land, or in a part of any land, shall be treated as a consideration for the disposal of trading stock and shall accordingly be taken into account as a trading receipt.

25 (b) Any interest in any land which is held by a person carrying on a trade (hereafter in this section referred to as the trader) and which has become trading stock of the trade shall thereafter, until the discontinuance of the trade, continue to be such trading stock.

30 (c) Where the trader has acquired an interest in any land otherwise than for consideration in money or money's worth, he shall, subject to paragraph (d), be deemed to have purchased the interest for a consideration equal to its market value at the time of acquisition.

35 (d) Where at the time of acquisition of an interest in any land the trade had not been commenced or the interest was not then appropriated as trading stock, the trader shall be deemed to have purchased the interest for a consideration equal to its market value at the time of its appropriation as trading stock.

40 (e) Any consideration (other than receipts falling within section 81 (1) (b) of the Income Tax Act, 1967, the profits or gains arising from which are, by virtue of that section, chargeable to tax under Case V of Schedule D) for the granting by the trader of any right in relation to the development of any land shall be taken into account as a trading receipt.

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(3) Account shall not be taken of any sum (hereafter in this subsection referred to as the relevant sum) which is paid or is payable at any time by the trader as consideration for the forfeiture or surrender of the right of any person to an annuity or other annual payment unless— 5

(a) the annuity or other annual payment arises under—

(i) a testamentary disposition, or

(ii) a liability incurred for— 10

(I) valuable and sufficient consideration all of which is required to be brought into account in computing for the purposes of income tax or corporation tax the income of the person to whom that consideration is given, or 15

(II) consideration given to a person who— 20

(A) has not at any time carried on a business of dealing in or developing land which is, or is to be regarded as, a trade or a part of a trade, and 25

(B) is not and was not at any time connected with any of the following persons—

(aa) the trader, 30

(bb) a person who is or was at any time connected with the trader, and

(cc) any other person 35 who, in the course of a business of dealing in or developing land which is, or is to be regarded 40 as, a trade or a part of a trade, holds or held an interest in land upon which the annuity or other 45 annual payment was charged or reserved.

or

(b) the relevant sum is required to be brought into account in computing for the purposes of income tax or corporation tax 50

the profits or gains of a trade of dealing in or developing land carried on by the person to whom the relevant sum is payable.

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(4) Where—

(a) a sum (hereafter in this subsection referred to as the said sum) is payable—

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(i) by a person (hereafter in this subsection referred to as the relevant person) who is not the trader,

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(ii) as consideration for the forfeiture or surrender of the right of any person to an annuity or other annual payment, and

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(b) the said sum is not required to be brought into account in computing for the purposes of income tax or corporation tax the profits or gains of a trade of dealing in or developing land carried on by the person to whom the said sum is payable, and

25

(c) the trader incurs expenditure (hereafter in this subsection referred to as the cost) in acquiring any interest in land upon which the annuity or other annual payment had been reserved or charged,

then—

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(I) the trader shall be treated as having expended in acquiring that interest an amount equal to the amount which would have been expended if the right had not been forfeited or surrendered, and

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(II) the excess of the cost over the amount determined in accordance with subparagraph (I) shall be treated for the purposes of subsection (3) as having been payable by the trader as consideration for the forfeiture or surrender of that right,

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and for the purposes of this subsection all such apportionments and valuations shall be made as appear to the inspector or, on appeal, to the Appeal Commissioners, to be just and reasonable:

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Provided that this subsection shall not apply where the relevant person carries on a trade of dealing in or developing land and pays the said sum in the course of carrying on that trade.”.

(b) Any provision of section 18 of the Finance (Miscellaneous Provisions) Act, 1968, which applies in relation to the computation of the profits or gains or losses of any period ending before the 6th day of April, 1981, but which, by reason of this section, does not apply in relation to the computation of the profits or gains or losses of any period ending on or after that date, shall, in particular, not apply in relation to the determination of the value of the trading stock of a trade at the commencement of any period ending on or after that date. 10

(3) Part IV of the Finance (Miscellaneous Provisions) Act, 1968, is hereby amended by the substitution of the following sections for sections 20, 21 and 22:

"Tax to be charged under Case IV on gains from certain disposals of land.

20.—(1) This section shall not apply to—

(a) a gain realised before the 6th day of April, 1981, or 15

(b) a gain accruing to an individual which, by virtue of section 25 (private residence) of the Capital Gains Tax Act, 1975, is exempt from capital gains tax, or which would be so exempt but for the provisions of subsection (10) of that section. 20

(2) In this section and in section 21—

'capital amount' means any amount, in money or money's worth, which, apart from this section, does not fall to be included in any computation of income for the purposes of the Tax Acts, and other expressions which include the word 'capital' shall be construed accordingly; 25 30

'chargeable period' means an accounting period of a company or a year of assessment;

'land' includes any interest in land and references to the land include references to all or any part of the land; 35

'share' includes stock;

references to property deriving its value from land include references to—

(i) any shareholding in a company, or any partnership interest, or any interest in settled property, deriving its value or the greater part of its value directly or indirectly from land, and 40

(ii) any option, consent or embargo affecting the disposition of land. 45

(3) This section shall apply in any case where—

(a) land, or any property deriving its value from land, is acquired with the sole or main object of realising a gain from disposing of the land, 50

(b) land is held as trading stock, or

(c) land is developed by a company with the sole or main object of realising a gain from disposing of the land when developed,

and any gain of a capital nature is obtained from the disposal of the land—

(i) by the person acquiring, holding or developing the land, or by a person connected with that person, or

(ii) where any arrangement or scheme is effected as respects the land which enables the gain to be realised directly or indirectly by any transaction, or by any series of transactions, by any person who is a party to, or concerned in, the arrangement or scheme,

and this subsection shall apply whether the said gain is obtained by any such person for himself or for any other person.

(4) Where this section applies, the whole of any such gain as is mentioned in subsection (3) shall, for all the purposes of the Tax Acts, be treated—

(a) as being income which arises at the time when the gain is realised and which constitutes profits or gains chargeable to tax under Case IV of Schedule D for the chargeable period in which the gain is realised, and

(b) subject to the following provisions of this section, as being income of the person by whom the gain is realised.

(5) For the purposes of this section land shall be treated as disposed of if, by any one or more transactions, or by any arrangement or scheme, whether concerning the land or property deriving its value from the land, the property in the land, or control over the land, is effectually disposed of, and references in subsection (3) to the acquisition or development of land or property with the sole or main object of realising a gain from disposing of the land shall be construed accordingly.

(6) For the purposes of this section—

(a) where, whether by a premature sale or otherwise, a person directly or indirectly makes available to another person the opportunity of realising a gain, the gain of that other person shall be treated as having been obtained for him by the person first mentioned in this subsection, and

- (b) any number of transactions may be regarded as constituting a single arrangement or scheme if a common purpose is discerned in them, or if there is other sufficient evidence of a common purpose. 5

(7) In applying this section account shall be taken of any method, direct or indirect, by which—

- (a) any property or right is transferred or transmitted to another person, or 10
- (b) the value of any property or right is enhanced or diminished,

and, accordingly, the occasion of the transfer or transmission of any property or right, by whatever method, and the occasion when the value of any property or right is enhanced, may be treated as an occasion on which tax becomes chargeable under this section. 15

(8) Subsection (7) shall apply in particular— 20

- (a) to sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,
- (b) to any method by which any property or right, or the control of any property or right, is transferred or transmitted to any person by assigning— 25
 - (i) share capital or other rights in a company, 30
 - (ii) rights in a partnership, or
 - (iii) an interest in settled property,
- (c) to the creation of any option or consent or embargo affecting the disposition of any property or right, and to the consideration given for the option, or for the giving of the consent or the release of the embargo, and 35
- (d) to the disposal of any property or right on the winding up, dissolution or termination of any company, partnership or trust. 40

(9) For the purposes of this section such method of computing a gain shall be adopted as is just and reasonable in the circumstances, taking into account the value of what is obtained for disposing of the land, and allowing only such expenses as are attributable to the land disposed of, and in applying this subsection— 45

5 (a) where an interest in land is acquired and the reversion is retained on disposal, account may be taken of the way in which the profits or gains under Case I of Schedule D of a person dealing in land are computed in such a case, and

10 (b) account may be taken of the adjustments to be made in computing such profits or gains under section 84 (2) and 85 (4) of the Income Tax Act, 1967.

15 (10) Subsection (3) (c) shall not apply to so much of any gain as is fairly attributable to the period, if any, before the intention to develop the land was formed, and which would not fall under paragraph (a) or (b) of that subsection; and in applying this subsection account shall be taken of the treatment under Case I of Schedule D of a person who appropriates land as trading stock.

20 (11) If all or any part of the gain accruing to any person is derived from value, or an opportunity of realising a gain, provided directly or indirectly by some other person (whether or not put at the disposal of the person first mentioned in this subsection), subsection (4) (b) shall apply to the gain, or that part of it, with the substitution of that other person for the person by whom the gain was realised.

(12) Where there is a disposal of shares in—

30 (a) a company which holds land as trading stock, or

(b) a company which owns directly or indirectly 90 per cent. or more of the ordinary share capital of another company which holds land as trading stock,

35 and all the land so held is disposed of in the normal course of its trade by the company which held it, and so as to procure that all opportunity of profit in respect of the land arises to that company, then, notwithstanding subsection (3) (i), this section shall not apply to any gain accruing to the holder of shares as being a gain on property deriving value from that land (but without prejudice to any liability under subsection (3) (ii)).

40 (13) In ascertaining for the purposes of this section, the intentions of any person, the objects and powers of any company, partners or trustees, as set out in any memorandum or articles of association or other document, shall not be conclusive.

50 (14) For the purposes of ascertaining whether and to what extent the value of any property or right is derived from any other property or right, value may be traced through any number of companies, partnerships and trusts, and the property

held by any company, partnership or trust shall be attributed to the shareholders, partners or beneficiaries at each stage in such manner as is just and reasonable.

(15) In applying this section—

5

(a) any expenditure or receipt or consideration or other amount may be apportioned by such method as is just and reasonable, and

(b) all such valuations shall be made as may be necessary to give effect to the provisions of the section.

(16) For the purposes of this section partners, or the trustees of settled property, or personal representatives, may be regarded as persons distinct from the individuals or other persons who are for the time being partners or trustees or personal representatives.

(17) This section shall apply to a person, whether resident in the State or not, if all or any part of the land in question is situated in the State.

Provisions
supplementary to
section 20.

21.—(1) (a) Where a person (hereafter in this subsection referred to as the first-mentioned person) is assessed to tax under section 20 and that assessment to tax arises in consequence of and in respect of consideration receivable by another person (hereafter in this subsection referred to as the second-mentioned person)—

(i) the first-mentioned person shall be entitled to recover from the second-mentioned person any part of that tax which the first-mentioned person has paid, and

(ii) if any part of that tax remains unpaid at the expiration of six months from the date when it became due and payable, it shall be recoverable from the second-mentioned person as though he were the person so assessed, but without prejudice to the right to recover the tax from the first-mentioned person,

and for the purposes of subparagraph (i), the inspector shall on request furnish a certificate specifying the amount of income in respect of which tax has been paid, and the amount of tax so paid; and the certificate shall be evidence, until the contrary is proved, of any facts stated therein.

5 (b) For the purposes of this subsection
any amount which by virtue of
section 20 is treated as the income
of a person shall, notwithstanding
any other provision of the Tax
Acts, be treated as the highest
part of his income.

10 (2) If it appears to the Revenue Commissioners
that any person entitled to any consideration or
other amount chargeable to tax under section 20
is not resident in the State, they may direct that
section 434 of the Income Tax Act, 1967 (interest,
etc., not payable out of taxed profits), shall apply
15 to any payment forming part of that amount as if
the payment were an annual payment charged
with tax under Schedule D, but without prejudice
to the final determination of the liability of that
person, including any liability under subsection
(1) (a) (ii).

20 (3) Section 20 shall have effect subject to any
provision of the Tax Acts deeming income to be
income of a particular person.

25 (4) Where, by virtue of section 20 (3) (c), any
person is charged to tax on the realisation of a
gain, and, by virtue of subsection (10) of that
section, the computation of the gain proceeded on
the footing that the land or some other property
was appropriated at any time as trading stock, that
land or other property shall be treated on that
30 footing also for the purposes of paragraph 15 of
Schedule 1 to the Capital Gains Tax Act, 1975
(appropriations to and from stock in trade).

35 (5) Where, by virtue of section 20 (11), the
person charged to tax is a person other than the
person for whom the capital amount was obtained
or the person by whom the gain was realised, and
the tax has been paid, then, for the purposes of
paragraphs 2 and 4 of Schedule 1 to the Capital
Gains Tax Act, 1975 (profits taxable as income to
be excluded from tax on capital gains), the person
40 for whom the capital amount was obtained or the
person by whom the gain was realised, as may be
appropriate, shall be regarded as having been
charged to the tax so paid.

45 Power to obtain
information.

22.—(1) The inspector may by notice in writing
require any person to furnish him within such time
as may be specified in the notice (not being less
than thirty days) with such particulars as the
inspector thinks necessary for the purposes of
50 sections 20 and 21.

(2) The particulars which a person is obliged to
furnish under this section, if he is required by
notice so to do, include particulars—

55 (a) as to transactions or arrangements with
respect to which he is, or was, acting
on behalf of others, and

(b) as to transactions or arrangements which, in the opinion of the inspector, should properly be examined for the purposes of sections 20 and 21 notwithstanding that, in the opinion of the person to whom the notice is given, no liability to tax arises under those sections, and

(c) as to whether the person to whom the notice is given has taken, or is taking, any, and if so what, part in any, and if so what, transactions or arrangements of a description specified in the notice.

(3) Notwithstanding anything in subsection (2) a solicitor shall not be deemed for the purposes of subsection (2) (c) to have taken part in any transaction or arrangements by reason only that he has given professional advice to a client in connection with the transaction or arrangements, and shall not, in relation to anything done by him on behalf of a client, be compellable under this section, except with the consent of his client, to do more than state that he is or was acting on behalf of a client, and give the name and address of his client.”.

(4) Schedule 15 to the Income Tax Act, 1967, is hereby amended by the insertion in column 2 thereof of “Finance (Miscellaneous Provisions) Act, 1968, section 22”.

PART II

CUSTOMS AND EXCISE

Interpretation (*Part II*).

30.—In this Part—

“the Act of 1980” means the Finance Act, 1980;

“the Order of 1975” means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975).

Beer.

31.—(1) The duty of excise on beer imposed by paragraph 7 (1) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the rate of £112.266 for, in the case of all beer brewed within the State, every 36 gallons of worts of a specific gravity of 1,055 degrees, and, in the case of all imported beer, every 36 gallons of beer of which the worts were before fermentation of a specific gravity of 1,055 degrees, in lieu of the rate mentioned in section 64 (1) of the Act of 1980.

(2) Subject to paragraph 5 of the Imposition of Duties (No. 250) (Beer) Order, 1981 (S.I. No. 10 of 1981), the drawback on beer provided for in paragraph 7 (3) of the Order of 1975 shall, as respects beer on which it is shown, to the satisfaction of the Revenue Commissioners, that duty at the rate mentioned in *subsection (1)* of this section has been paid, be calculated, according to the original specific gravity of the beer, at the rate of £112.266 on every 36 gallons of beer of which the original specific gravity was 1,055 degrees.

Tobacco products.

32.—(1) In this section and in the *Second Schedule* to this Act “cigarettes”, “cigars”, “cavendish or negrohead”, “hard pressed tobacco”, “other pipe tobacco”, “smoking tobacco”, “chewing

tobacco" and "tobacco products" have the same meanings as they have in the Finance (Excise Duty on Tobacco Products) Act, 1977, as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979 (S.I. No. 296 of 1979).

- 5 (2) The duty of excise on tobacco products imposed by section 2 of the Finance (Excise Duty on Tobacco Products) Act, 1977, shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the several rates specified in the *Second Schedule* to this Act in lieu of the several rates specified in the Third Schedule to the Act
10 of 1980.

- (3) Paragraph 10 (4) of the Order of 1975, as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979, shall be amended by the substitution for "£0.99 per kilogram for each kilogram" of "£1.97 per kilogram for each
15 kilogram".

33.—(1) In this section "alcohol" means pure ethyl alcohol.

Spirits.

- (2) The duty of excise on spirits imposed by paragraph 4 (2) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the several rates specified in the *Third*
20 *Schedule* to this Act in lieu of the several rates specified in the Second Schedule to the Act of 1980.

- (3) Nothing in this section shall operate to relieve from or to prejudice or affect the additional duty of excise in respect of immature spirits imposed by paragraph 4 (2) of the Order of 1975 and the third
25 column of the First Schedule to that Order as amended by paragraph 4 (2) of the Imposition of Duties (No. 244) (Excise Duties on Spirits, Beer and Hydrocarbon Oils) Order, 1979 (S.I. No. 415 of 1979), and the third column of the First Schedule to that Order.

- (4) If any person proves to the satisfaction of the Revenue Commissioners that spirits in respect of which a duty of excise has been paid by him have become spoilt or otherwise unfit for consumption, the person may, with the permission of the Revenue Commissioners and subject to such conditions as they may think fit to impose, destroy the spirits and, upon proof of such destruction to the satisfaction of
30 the Revenue Commissioners, they may, subject to compliance with such conditions as they may think fit to impose, repay to such person any duty of excise paid on such spirits.
35

34.—(1) In the *Fourth Schedule* to this Act—

Wine and made wine.

- "actual alcoholic strength by volume" means the number of volumes
40 of pure alcohol contained at a temperature of 20°C in 100 volumes of the product at that temperature;

"% vol" means alcoholic strength by volume.

- (2) The duty of excise on wine imposed by paragraph 5 (2) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the several rates specified in *Part I* of the *Fourth Schedule* to this Act in lieu of the several rates specified in *Part I* of the *Fourth Schedule* to the Act of 1980.
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- (3) The duty of excise on made wine imposed by paragraph 6 (2) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the several rates specified in *Part II* of the *Fourth Schedule* to this Act in lieu of the several rates specified in *Part II* of the *Fourth Schedule* to the Act of 1980.
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35.—(1) The duty of excise on mineral hydrocarbon light oil imposed by paragraph 11 (1) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the rate of £16.53 per hectolitre in lieu of the rate specified in section 70 (2) of the Act of 1980.

5

(2) The duty of excise on hydrocarbon oil imposed by paragraph 12 (1) of the Order of 1975 shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the rate of £10.88 per hectolitre in lieu of the rate specified in section 70 (3) of the Act of 1980.

10

(3) As on and from the 29th day of January, 1981, the rate of any repayment allowed under paragraph 12 (11) of the Order of 1975 in respect of hydrocarbon oil on which such repayment is allowable and on which the excise duty mentioned in subsection (2) of this section was paid at the rate of £10.88 per hectolitre shall be £9.09 per hectolitre in lieu of the rate allowable immediately before the 29th day of January, 1981.

15

(4) The duty of excise on gaseous hydrocarbons in liquid form imposed by section 41(1) of the Finance Act, 1976, shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the rate of £0.40 per gallon in lieu of the rate specified in section 70(14) of the Act of 1980.

20

(5) (a) In this subsection —

“hydrocarbon oil” means hydrocarbon oil delivered on or after the 1st day of June, 1981, on which the excise duty imposed by paragraph 12 of the Order of 1975 has been paid;

25

“sea-fishing boat” means a sea-fishing boat which —

(i) is registered in accordance with the Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) (Regulations) Order, 1927 (S.R. & O., No. 105 of 1927), and

30

(ii) is registered under the Mercantile Marine Act, 1955;

“sea-fishing” does not include sea-angling.

(b) Where the owner or master of a sea-fishing boat shows to the satisfaction of the Revenue Commissioners that hydrocarbon oil was used for combustion in the engine of that boat while engaged in sea-fishing, the Revenue Commissioners may, subject to such conditions as they may think fit to impose, repay excise duty at the rate of £0.44 per hectolitre on the oil so used.

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(c) Except where the Revenue Commissioners otherwise allow, an application for repayment of duty under this subsection shall be in respect of hydrocarbon oil used within a period of three months and shall be made not later than six months following the end of such period.

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36.—The duty of excise on televisions imposed by paragraph 5(1) of the Imposition of Duties (No. 236) (Excise Duties on Motor Vehicles, Televisions and Gramophone Records) Order, 1979 (S.I. No. 57 of 1979), shall be charged, levied and paid, as on and from the 29th day of January, 1981, at the several rates specified in the *Fifth Schedule* to this Act in lieu of the several rates specified in the *Sixth Schedule* to the Act of 1980.

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37.—(1) Paragraph 9 of the Order of 1975 is hereby amended —

Amendment of duty
on table waters.

(a) by the substitution for subparagraph (2) of the following subparagraph:

“(2) In addition to any other duty which may be chargeable, there shall be charged, levied and paid upon table waters made in the State which are sent out, on or for sale or otherwise, from the premises of the manufacturer or sold for consumption on the premises of the manufacturer, and on table waters imported into the State, a duty of excise at the rate of £0.372 per gallon.”,

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

“(3) In this Order ‘table waters’ includes any aerated waters and any beverages (including syrups or other liquors intended to be consumed only in a diluted form) put up for sale in bottles, cans, casks or other closed containers or receptacles other than —

(a) any liquor for the retail sale of which an excise licence is required,

(b) milk and milk products, whether or not flavoured,

(c) soups and broths, and

(d) fruit and vegetable juices which, in the opinion of the Revenue Commissioners, have not lost their original character through the addition of water or of other substances for sweetening, preservative or other purposes.”.

(2) Section 69 of the Act of 1980 is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) Subject to the subsequent paragraphs of this subsection, every manufacturer of table waters on which the duty of excise imposed by paragraph 9 (2) of the Order of 1975, as amended, is paid by him shall, on and after the 1st day of March, 1981, be allowed a rebate of the duty as follows in relation to each premises in which he manufactures the table waters:

Rate of Rebate

Where the quantity manufactured by him therein on which the duty has been paid by him in any year commencing on the 1st day of March does not exceed 40,000 gallons

£0.16 per gallon for each gallon thereof.

exceeds 40,000 gallons and is less than 120,000 gallons

£0.16 per gallon for each of the first 40,000 gallons and £0.08 per gallon for each other gallon.

is 120,000 gallons or more £0.16 per gallon for each of
the first 40,000 gallons and
£0.08 per gallon for each of
the next 80,000 gallons.”.

(3) This section shall have effect as on and from the 1st day of June, 1981.

Alteration of rate of
duty on
Refreshment House
licence.

38.—(1) The duty of excise on Refreshment House licences, imposed by section 1 of the Refreshment Houses (Ireland) Act, 1860, shall be charged, levied and paid at the rate of £10 in lieu of the rate specified in section 77(5) of the Act of 1980.

(2) This section shall have, and be deemed to have had, effect as on and from the 1st day of April, 1981, and any duty of excise paid in excess of £10 under the said section 77(5) in respect of any Refreshment House licence issued on or after such day may be repaid.

Confirmation
of Order.

39.—The Imposition of Duties (No. 246) (Beer) Order, 1980 (S.I. No. 49 of 1980), is hereby confirmed.

Increase of
excise duties
on licences for
mechanically
propelled
vehicles.

40.—(1) Section 94 of the Finance Act, 1973 (No. 19 of 1973), is hereby amended by the substitution of the following paragraphs for paragraph (b) of subsection (2):

“(b) £16.50 in relation to a vehicle which does not exceed 16 horse-power, is fitted with a taximeter and is lawfully used as a street service vehicle within the meaning of the Road Traffic Act, 1961, or for purposes incidental to such user and for no other purpose;

(c) £20 in relation to any other vehicle (not being a vehicle in respect of which the said duty of excise is not chargeable or leviable or a vehicle to which paragraph (d) of this subsection applies);

(d) £10 in relation to a vehicle which exceeds 16 horse-power, is fitted with a taximeter and is lawfully used as a street service vehicle within the meaning of the Road Traffic Act, 1961, or for purposes incidental to such user and for no other purpose.”.

(2) This section shall have effect —

(a) as respects licences under section 1 of the Finance (Excise Duties) (Vehicles) Act, 1952, taken out for periods beginning on or after the 1st day of March, 1981, in respect of specified vehicles (within the meaning of the said section 94) to which paragraphs (b) and (c) (inserted by this section) of the said subsection (2) apply, and

(b) as respects other mechanically propelled vehicles to which paragraphs (c) and (d) (inserted by this section) of the said subsection (2) apply and in respect of which licences under the said section 1 are taken out for periods beginning on or after the said 1st day of March, 1981.

(3) The appropriate repayments shall be made having regard to the provisions of the preceding subsections of this section and the repayments shall be made in accordance with such directions as may be given by the Minister for the Environment.

41.—Section 1(2)(b) of the Finance (Excise Duties) (Vehicles) Act, 1952, is, as respects licences under that Act for periods beginning on or after the 1st day of March, 1981, hereby amended by the substitution of “twenty pounds or less” for “ten pounds or less” (inserted
5 by the Act of 1980).

Amendment of
Finance (Excise
Duties) (Vehicles)
Act, 1952.

PART III

VALUE-ADDED TAX

42.—In this Part “the Principal Act” means the Value-Added Tax Act, 1972. Principal Act.

10 43.—Section 1(1) of the Principal Act is hereby amended, with effect as on and from the 1st day of November, 1972, by the insertion in the definition of “development” after “correspondingly” of — Amendment of section 1 (interpretation) of Principal Act.

“, and

15 in this definition ‘building’ includes, in relation to a transaction, any prefabricated or like structure in respect of which the following conditions are satisfied:

(a) the structure —

20 (i) has a rigid roof and one or more rigid walls and, except in the case of a structure used for the cultivation of plants, a floor,

(ii) is designed so as to provide for human access to, and free movement in, its interior,

(iii) is for a purpose that does not require that it be mobile or portable, and

25 (iv) does not have or contain any aids to mobility or portability,

and

30 (b) (i) neither the agreement in respect of the transaction nor any other agreement between the parties to that agreement contains a provision relating to the rendering of the structure mobile or portable or the movement or re-location of the structure after its erection, and

35 (ii) the person for whom the structure is constructed, extended, altered or reconstructed signs and delivers, at the time of the transaction, to the person who constructed, extended, altered or reconstructed the structure a declaration of his intention to retain it on the site on which it is at that time located”.

40 44.—Section 12(2) of the Principal Act is hereby amended by the substitution of “refunded to the taxable person in accordance with section 20(1)” for “repaid to the taxable person”. Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

45.—Section 20 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (1): Amendment of section 20 (refund of tax) of Principal Act.

“(1) Where, in relation to a return lodged under section 19 or a claim made in accordance with regulations, it is shown to the satisfaction of the Revenue Commissioners that, as respects any taxable period, the amount of tax, if any, actually paid to the Collector-General in accordance with section 19 together with the amount of tax, if any, which qualified for deduction under section 12 exceeds the tax, if any, which would properly be payable if no deduction were made under the said section 12, they shall refund the amount of the excess less any sums previously refunded under this subsection or repaid under section 12 and may include in the amount refunded any interest which has been paid under section 21.”.

PART IV

CAPITAL ACQUISITIONS TAX

Relief in respect of certain marriage settlements.

46.—(1) Part 1 of the Second Schedule to the Capital Acquisitions Tax Act, 1976, is hereby amended by the insertion after paragraph 9 of the following paragraph:

- “10. (a) In this paragraph ‘specified disposition’ means a disposition —
- (i) the date of which is a date prior to the 1st day of April, 1975,
 - (ii) in relation to which the disponent is a grandparent of the donee or successor, and
 - (iii) in which the marriage of the parents of the donee or successor was, at the date of the disposition, expressed to be the consideration.
- (b) Where, on the cesser of a limited interest to which a parent of the donee or successor was entitled in possession, the donee or successor takes a gift or an inheritance under a specified disposition, then, for the purpose of computing the tax payable on the gift or inheritance, the donee or successor shall be deemed to bear to the disponent the relationship of a child.”.

(2) Notwithstanding the provisions of section 46 of the Capital Acquisitions Tax Act, 1976, interest shall not be payable on any repayment of tax which arises by virtue of this section where such tax was paid prior to the date of the passing of this Act.

PART V

STAMP DUTIES

Amendment of section 58 (direction as to duty in certain cases) of Stamp Act, 1891.

47.—Section 58 of the Stamp Act, 1891, is hereby amended, with respect to instruments executed on or after the date of the passing of this Act, by the insertion after subsection (6) of the following subsections:

- “(7) (a) The consideration moving from the sub-purchaser shall, in a case to which subsection (4), (5) or (6) applies, be ascertained without regard to the value of any covenant, power, condition or arrangement relating to the subject matter of the conveyance which was

not in the contract for sale entered into by the original seller and also without regard to any consideration the duty on which or on any part of which would be charged in accordance with subsection (2) or (3) of section 56.

(b) In paragraph (a) 'the original seller' means, in relation to a case to which subsection (4) applies, the person from whom the property is conveyed to the sub-purchaser and, in relation to a case to which subsection (5) or (6) applies, the original seller referred to in the said subsection (5) or (6), as the case may be.

(8) Paragraph 4 of the Heading 'Conveyance or Transfer on sale of any property other than stocks or marketable securities' (inserted by the Finance Act, 1975) in the First Schedule to this Act shall not apply to determine the stamp duty to be charged on any conveyance referred to in subsection (4), (5) or (6).

(9) A conveyance in respect of which subsection (7) has effect shall be deemed to be a conveyance operating as a voluntary disposition *inter vivos* for the purposes of section 74 of the Finance (1909-10) Act, 1910."

48.—(1) Section 49 of the Finance Act, 1969, is hereby amended by the insertion after subsection (2) (inserted by the Finance Act, 1976) of the following subsection:

Amendment of section 49 (exemption of certain instruments from stamp duty) of Finance Act, 1969.

"(2A) Notwithstanding subsection (2) of this section, subsection (1) of this section shall have effect in relation to an instrument if, but (apart from the said subsection (2)) only if, it is shown to the satisfaction of the Revenue Commissioners —

(a) that there is in force in respect of the house to which the instrument relates a certificate of reasonable value under section 18 of the Housing (Miscellaneous Provisions) Act, 1979, and

(b) that the Minister for the Environment has certified that he is satisfied, on the basis of the information available to him at the time of so certifying, that the total floor area of the said house measured in the manner referred to in section 4(2)(b) of that Act does not or will not exceed the maximum total floor area standing specified in regulations under the said section 4(2)(b) and is not or will not be less than the minimum total floor area standing so specified."

49.—(1) Section 41 of the Finance Act, 1970, is hereby amended by the substitution of "3p" for "one new penny" in subsection (1) and for "one penny in new currency" in subsection (3).

Amendment of section 41 (stamp duty on bills of exchange and promissory notes) of Finance Act, 1970.

(2) This section shall have effect with respect to bills of exchange and promissory notes drawn on or after the date of the passing of this Act.

50.—(1) The Imposition of Duties (No. 248) (Stamp Duty on Bills of Exchange and Promissory Notes) Order, 1980 (S.I. No. 136 of 1980), is hereby revoked with respect to bills of exchange and promissory notes drawn on or after the date of the passing of this Act.

Revocation of Orders.

(2) The following Orders are hereby revoked with respect to instruments executed on or after the date of the passing of this Act:

(a) the Imposition of Duties (No. 247) (Stamp Duty on Conveyances to Sub-Purchasers) Order, 1980 (S.I. No. 123 of 1980),

(b) the Imposition of Duties (No. 249) (Exemption of Certain Instruments from Stamp Duty) Order, 1980 (S.I. No. 317 of 1980).

PART VI

MISCELLANEOUS

Capital Services
Redemption
Account.

51.—(1) In this section—

“the principal section” means section 22 of the Finance Act, 1950; 10

“the 1980 amending section” means section 88 of the Finance Act, 1980;

“the thirty-first 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. 15

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of December, 1981, subsection (4) of the 1980 amending section shall have effect with the substitution of “£24,070,491” for “£20,397,734”. 20

(3) Subsection (6) of the 1980 amending section shall have effect with the substitution of “£15,194,542” for “£13,130,462”.

(4) A sum of £29,870,308 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of December, 1981. 25

(5) The thirty-first 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. 30

(6) Any amount of the thirty-first additional annuity, not exceeding £19,228,162 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the thirty-first additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section. 35

Disclosure of
information to the
Ombudsman.

52.—Any obligation to maintain secrecy or other restriction upon the disclosure or production of information (including documents) obtained by or furnished to the Revenue Commissioners, or any person on their behalf, for taxation purposes, shall not apply to the disclosure or production of information (including documents) to the Ombudsman for the purposes of an examination or investigation by the Ombudsman, under the Ombudsman Act, 1980, of any action (within the meaning of the Ombudsman Act, 1980) taken by or on behalf of the Revenue Commissioners, being such an action taken in the performance of administrative functions in respect of any tax or duty under the care and management of the Revenue Commissioners. 40 45

53.—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.

54.—(1) This Act may be cited as the Finance Act, 1981.

Short title, construction and commencement.

(2) *Part I* of this Act (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts.

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

(4) *Part III* of this Act shall be construed together with the Value-Added Tax Acts, 1972 to 1980, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1981.

(5) *Part IV* of this Act shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act.

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

(7) *Part I* of this Act shall, save as is otherwise expressly provided therein, be deemed to have come into force and shall take effect as on and from the 6th day of April, 1981.

(8) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment including this Act.

FIRST SCHEDULE

Section 2

AMENDMENT OF ENACTMENTS

30 *Amendments Consequential on Changes in Personal Reliefs*

1. The Income Tax Act, 1967, is hereby amended in accordance with the following provisions:

(a) in section 138A, for “£500” there shall be substituted “£650”,

35 (b) in section 138B(1), for “£400” in each place where it occurs, there shall be substituted “£600”,

(c) in section 141(1A), in paragraphs (b) and (c), for “£390” in each place where it occurs, there shall be substituted “£500”.

2. Section 3 of the Finance Act, 1969, is hereby amended by the
40 substitution in subsection (1) of “£500” for “£330”.

3. Section 11 of the Finance Act, 1971, is hereby amended by the substitution in subsection (2) of "£400" for "£330" in each place where it occurs and of "£1,000" for "£660".

Section 32.

SECOND SCHEDULE

RATES OF EXCISE DUTY ON TOBACCO PRODUCTS

Description of Product	Rate of Duty
Cigarettes	£15.30 per thousand together with an amount equal to 22.4 per cent. of the price at which the cigarettes are sold by retail.
Cigars	£28.614 per kilogram
Cavendish or negrohead	£28.915 per kilogram
Hard pressed tobacco	£18.492 per kilogram
Other pipe tobacco	£23.244 per kilogram
Other smoking or chewing tobacco	£24.146 per kilogram

Section 33.

THIRD SCHEDULE

RATES OF EXCISE DUTY ON SPIRITS

Description of Spirits	Rate of Duty
Spirits of any description not mentioned hereinafter and imported mixtures and preparations containing spirits ...	£20.922 per litre of alcohol in the spirits
Imported perfumed spirits entered in such manner as to indicate that the strength is not to be tested	£19.039 per litre
Imported liqueurs, cordials, mixtures and other preparations in bottle entered in such manner as to indicate that the strength is not to be tested	£16.110 per litre

Section 34.

FOURTH SCHEDULE

PART I

RATES OF EXCISE DUTY ON WINE

Description of Wine	Rate of Duty
<i>Still:</i>	
Of an actual alcoholic strength by volume not exceeding 15% vol	£1.40 per litre
Of an actual alcoholic strength by volume exceeding 15% vol but not exceeding 18% vol	£1.98 per litre
Of an actual alcoholic strength by volume exceeding 18% vol but not exceeding 22% vol	£2.56 per litre
<i>Sparkling</i>	£2.78 per litre
<i>Wine whether still or sparkling of an actual alcoholic strength by volume exceeding 22% vol:</i>	
An additional duty for every 1% vol or fraction of 1% vol above 22% vol	£0.20 per litre

PART II

RATES OF EXCISE DUTY ON MADE WINE

Description of Made Wine	Rate of Duty
<i>Still:</i>	
Of an actual alcoholic strength by volume not exceeding 15% vol	£1.31 per litre
Of an actual alcoholic strength by volume exceeding 15% vol but not exceeding 18% vol	£1.83 per litre
Of an actual alcoholic strength by volume exceeding 18% vol but not exceeding 22% vol	£2.29 per litre
<i>Sparkling</i>	£2.49 per litre
<i>Whether still or sparkling of an actual alcoholic strength by volume exceeding 22% vol:</i>	
An additional duty for every 1% vol or fraction of 1% vol above 22% vol	£0.20 per litre

FIFTH SCHEDULE

Section 36.

RATES OF EXCISE DUTY ON TELEVISIONS

Description of Televisions	Rate of Duty
<i>Colour televisions:</i>	
with a screen the maximum dimension of which does not exceed seventeen inches	£57 the television
with a screen the maximum dimension of which exceeds seventeen inches and does not exceed twenty-four inches	£72 the television
with a screen the maximum dimension of which exceeds twenty-four inches	£89 the television
<i>Monochrome televisions:</i>	
with a screen the maximum dimension of which does not exceed seventeen inches	£18 the television
with a screen the maximum dimension of which exceeds seventeen inches	£28 the television

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An tAire Airgeadais a thug isteach

*Ritheadh ag Dáil Éireann,
14 Bealtaine, 1981*

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Introduced by the Minister for Finance

*Passed by Dáil Éireann,
14th May, 1981*

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