



AN BILLE AIRGEADAIS, 1988
FINANCE BILL, 1988

Mar a meastar a bheith rite ag dhá Theach an Oireachtais
As deemed to have been passed by both Houses of the Oireachtas

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AN BILLE AIRGEADAIS, 1988
FINANCE BILL, 1988

BILL

entitled

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

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

INCOME TAX, CORPORATION TAX, CAPITAL GAINS TAX AND PENSION
FUND LEVY

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CHAPTER I

Income Tax

1.—As respects the year 1988-89 and subsequent years of assess-
ment, the Finance Act, 1980, is hereby amended—

Amendment of
provisions relating
to exemption from
income tax.

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(a) in subsection (2) of section 1, by the substitution of “£5,500”
for “£5,300” (inserted by the Finance Act, 1985), and of
“£2,750” for “£2,650” (inserted by the Finance Act, 1985),
and

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(b) in subsection (6) of section 2, by the substitution of “£6,500”
for “£6,300” (inserted by the Finance Act, 1986), of
“£7,600” for “£7,350” (inserted by the Finance Act, 1986),
of “£3,250” for “£3,150” (inserted by the Finance Act,
1986), and of “£3,800” for “£3,675” (inserted by the Fin-
ance Act, 1986),

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

TABLE

(2) In this section “the specified amount” means—

35

(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,
£5,500, and

(b) in any other case, £2,750.

(6) In this section “the specified amount” means—

(a) in a case where the individual would, apart from this section, be entitled to a deduction specified in paragraph (a) of the said section 138, £6,500:

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 specified amount" means £7,600;

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(b) in any other case, £3,250:

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 £3,800.

Alteration of rates of income tax.

2.—Section 2 of the Finance Act, 1986, is hereby amended, as respects the year 1988-89 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 £5,700	35 per cent.	the standard rate the higher rates
The next £2,900	48 per cent.	
The remainder	58 per cent.	

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PART II

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £11,400	35 per cent.	the standard rate the higher rates
The next £5,800	48 per cent.	
The remainder	58 per cent.	

Personal reliefs.

3.—(1) Where a deduction falls to be made from the total income of an individual for the year 1988-89 or any subsequent year of assessment in respect of relief to which the individual is entitled under a provision mentioned in *column (1)* of the Table to this subsection and the amount of the deduction would, but for this section, be an amount specified in *column (2)* of the said Table, the amount of the deduction shall, in lieu of being the amount specified in the said *column (2)*, be the amount specified in *column (3)* of the said Table opposite the mention of the amount in the said *column (2)*.

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TABLE

Statutory provision (1)	Amount to be deducted from total income for 1987-88 (2)	Amount to be deducted from total income for 1988-89 and subsequent years (3)
Income Tax Act, 1967:	£	£
section 138		
(married man)	4,000	4,100
(widowed person)	2,500	2,550
(widow bereaved in the year of assessment)	4,000	4,100
(widower bereaved in the year of assessment)	2,500	4,100
(single person)	2,000	2,050
section 138A		
(additional allowance for widows and others in respect of children)		
(widowed person)	1,500	1,550
(others)	2,000	2,050
section 138B		
(employee allowance)	700	800

(2) Section 3 of the Finance Act, 1986, shall have effect subject to the provisions of this section.

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

5 4.—Section 6 of the Finance Act, 1982, shall have effect for the purpose of ascertaining the amount of income on which an individual referred to therein is to be charged to income tax for the year 1988-89, as if in subsection (2)—

Amendment of section 6 (special allowance in respect of P.R.S.I. for 1982-83) of Finance Act, 1982.

(a) "1988-89" were substituted for "1982-83", and

10 (b) "£286" were substituted for "£312" in each place where it occurs.

5.—(1) Where, but for an insufficiency of profits or gains, a reduction of income tax would have been granted to an individual under the provisions of section 16 of the Finance Act, 1986, in respect of the full amount of farm tax paid by him on or before 31st December, 1986, he may claim to have his income tax in respect of profits or gains from farming for the years 1985-86 and 1987-88 reduced by the amount by which the farm tax so paid by him exceeds the tax appropriate to the profits or gains from farming in relation to that individual for the year 1986-87:

Application of section 16 (credit for farm tax) of Finance Act, 1986.

Provided that—

(a) the reduction to be granted under this subsection shall be set off, so far as possible, against the individual's liability for the year 1985-86, and

25 (b) no reduction under this subsection shall be allowed more than once in respect of the same amount of farm tax paid by the individual.

(2) This section shall be construed together with section 16 of the Finance Act, 1986.

30 6.—As respects any right obtained on or after the 6th day of April, 1988, by an individual to acquire shares in a body corporate, the Second Schedule to the Finance Act, 1986, is hereby amended as follows:

Amendment of Second Schedule to Finance Act, 1986.

35 (a) in subparagraph (1) of paragraph 1, by the deletion of the definitions of "full-time director" and "qualifying employee", and

(b) in subparagraphs (1) (a) and (2) of paragraph 5, by the deletion of "full-time" and by the substitution of "an" for "a qualifying",

40 and the said subparagraphs (1) (a) and (2), as so amended, are set out in the Table to this section.

TABLE

(a) unless he is a director or an employee of the grantor or, in the case of a group scheme, of a participating company;

45 (2) Notwithstanding subparagraph (1) (a) the scheme may provide that a person may exercise rights obtained under it despite having ceased to be a director or an employee.

7.—Section 16 of the Finance Act, 1984, is hereby amended, in paragraph (a) (inserted by the Finance Act, 1987) of subsection (2), by the insertion after subparagraph (iii) of the following subparagraph:

Amendment of section 16 (qualifying trades) of Finance Act, 1984.

“(iiiia) in respect of a subscription for eligible shares made on or after the 6th day of April, 1988, such cultivation of plants as is referred to in subsection (1CC3) (inserted by the Finance Act, 1987) of section 39 of the Finance Act, 1980.”

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Amendment of
Chapter III
(Payments in
Respect of
Professional
Services by Certain
Persons) of Part I of
Finance Act, 1987.

8.—Chapter III of Part I of the Finance Act, 1987, is hereby amended—

(a) in section 13 (1), by—

(i) the insertion of the following definitions:

“‘authorised insurer’ has the same meaning as in section 145 of the Income Tax Act, 1967; 10

‘contract of insurance’ means a contract between an authorised insurer and a subscriber in respect of such insurance as is referred to in section 145 (2) of the Income Tax Act, 1967; 15

‘member’ means, in relation to a contract of insurance, a person who is named in the relevant policy of insurance and who has been accepted for insurance by an authorised insurer;

‘practitioner’ has the same meaning as in section 12 of the Finance Act, 1967; 20

‘relevant medical expenses’ means expenses incurred in respect of professional services provided by a practitioner, being expenses that are or may become the subject of a claim for their reimbursement or discharge in whole or in part under a contract of insurance but not including any such expenses that— 25

(a) under the terms of the contract of insurance, may (except in the case of certain expenses that, in the opinion of the authorised insurer concerned, are unusually large) be the subject of a claim for their discharge or reimbursement only— 30

(i) after the expiry of a stated period of 12 months in which the expenses are incurred, and 35

(ii) to the extent that the aggregate of the expenses and any other expenses incurred in the said period exceeds a stated amount, 40

or

(b) are incurred in respect of professional services provided by a practitioner outside the State;

‘subscriber’ means, in relation to a contract of insurance, a person (other than an authorised insurer) who is a party to the contract and in whose name the relevant policy of insurance is registered;” 45

(ii) the substitution in paragraph (f) of the definition of “professional services” of “An Foras Áiseanna Saothair” for “An Chomhairle Oilíúna”, and 50

(iii) the substitution of the following definition for the definition of “relevant payment”:

“relevant payment’ means—

5 (a) a payment made on or after the 6th day of June, 1987, in respect of professional services whether or not such services are provided to the accountable person making the payment, and

(b) a payment made on or after the 6th day of June, 1988—

10 (i) by an accountable person mentioned in paragraph (u), (v), (w) or (x) (inserted by the *Finance Act, 1988*) of section 14 (1) of the *Finance Act, 1987*, in respect of professional services whether or not such services are provided to the accountable person, or

15 (ii) by an authorised insurer to a practitioner in accordance with the provisions of section 14A (inserted by the *Finance Act, 1988*), or otherwise, in the discharge of a claim in respect of relevant medical expenses under a contract of insurance,

20 but excludes—

(I) emoluments within the scope of Chapter IV of Part V of the *Income Tax Act, 1967*, to which that Chapter applies, and

25 (II) payments under a construction contract within the meaning of section 17 of the *Finance Act, 1970*, from which tax has been deducted in accordance with the provisions of subsection (2) of that section, or would have been so deducted but for the provisions of subsection (8) of that section;”,

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(b) in section 14 (1), by—

(i) the substitution of the following paragraph for paragraph (m):

“(m) An Foras Áiseanna Saothair,”, and

35 (ii) the deletion of “or” in paragraph (s) and the insertion of the following paragraphs after paragraph (t):

“(u) CERT,

(v) Eolas — The Irish Science and Technology Agency,

40 (w) An Bord Fuinnimh Núicléigh,

(x) a voluntary public or joint board hospital to which grants are paid by the Minister for Health in the year 1988-89 or any subsequent year of assessment, or

45 (y) an authorised insurer.”,

(c) by the insertion of the following section after section 14:

“14A.—Subject to section 15 (1) (inserted by the *Finance Act, 1988*), where under a contract of insurance a claim is made to an authorised insurer in respect of relevant medical expenses, the insurer shall discharge the claim by making payment to the extent of the amount of the benefit, if any, due under the contract, to the practitioner who provided the professional services to the subscriber or member concerned to which the relevant medical expenses relate and the subscriber or member, as the case may be, shall be acquitted and discharged of such amount as is represented by the payment as if the subscriber or member had made such payment.”, and

(d) in section 15 by the substitution of the following subsections for subsection (1):

“(1) An accountable person making a relevant payment shall deduct from the amount of the payment the appropriate tax in relation to the payment. The specified person to whom the amount is payable shall allow such deduction upon receipt of the residue of the payment, and

(a) the accountable person making the deduction, and

(b) if the accountable person is an authorised insurer, any subscriber or member on whose behalf the accountable person is making the relevant payment,

shall be acquitted and discharged of such amount as is represented by the deduction, as if that amount had actually been paid.

(1A) Where—

(a) in accordance with the provisions of section 14A (inserted by the *Finance Act, 1988*), a relevant payment has been made to a practitioner by an authorised insurer, and

(b) in accordance with the provisions of subsection (1), the practitioner has allowed a deduction of appropriate tax in respect of that payment and a subscriber or member has been acquitted and discharged of so much money as is represented by the deduction,

the practitioner shall, if any amount in respect of the relevant medical expenses to which the relevant payment relates has been paid by the subscriber or member, pay to the subscriber or member, as the case may be, an amount equal to the amount by which the aggregate of the amount paid by the subscriber or member and the amount of the relevant payment exceeds the relevant medical expenses.

(1B) (a) The Minister for Finance may make such regulations as he considers necessary or expedient for the purpose of giving full effect to this Chapter in so far as it relates to amendments made thereto by the *Finance Act, 1988*, and, in particular, but without prejudice to the

generality of the foregoing, regulations under this subsection may—

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- (i) specify the circumstances and the manner in which a payment (other than a relevant payment) may be made or claimed in respect of relevant medical expenses, and
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- (ii) provide for the indemnification of an individual against claims in respect of relevant medical expenses, or any other claims arising out of acts done or omitted to be done by the individual in pursuance of this Chapter or regulations made under this subsection in so far as it relates or they relate to the amendments aforesaid.
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- (b) Every regulation made under this subsection shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.
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CHAPTER II

Arrangements with regard to Returns, Assessments and Appeals

9.—(1) In this Chapter, except where the context otherwise requires— Interpretation
(Chapter II).

30 “appeal” means an appeal under section 416 of the Income Tax Act, 1967;

“appropriate inspector” means, in relation to a chargeable person—

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- (a) the inspector who has last given notice in writing to the chargeable person that he is the inspector to whom the chargeable person is required to deliver a return or statement of income or profits,
- (b) in the absence of such an inspector as is referred to in *paragraph (a)*, the inspector to whom it is customary for the chargeable person to deliver such return or statement, or
- 40
- (c) in the absence of such an inspector as is referred to in *paragraphs (a) and (b)*, the inspector of returns;

“assessment” means an assessment to tax made under the Income Tax Acts or the Corporation Tax Acts, as the case may be;

45 “chargeable period” has the same meaning as in paragraph 1 of the First Schedule to the Corporation Tax Act, 1976;

“chargeable person” means, as respects a chargeable period, a person who is chargeable to tax for that period, whether on his own account or on account of some other person, but does not include a person—

- (a) whose total income for the chargeable period consists solely of emoluments to which Chapter IV of Part V of the Income Tax Act, 1967, applies, and for this purpose a person whose total income for the chargeable period, other than emoluments to which the said Chapter IV applies, is deducted in determining the amount of his tax-free allowances for the chargeable period by virtue of Regulation 10 (1) (b) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960), shall be deemed for that chargeable period to be a person whose total income consists solely of emoluments to which the said Chapter IV applies, 5
- (b) who, for the chargeable period, has been exempted by an inspector from the requirements of *section 10* by reason of a notice given under *subsection (6)* of that section, or 15
- (c) who is chargeable to tax for the chargeable period by reason only of the provisions of *section 433* or *section 434* of the Income Tax Act, 1967, or *section 151* of the Corporation Tax Act, 1976;

“determination of the appeal” means a determination by the Appeal Commissioners under *section 416 (4)* of the Income Tax Act, 1967, and includes an agreement referred to in *section 416 (3)* of that Act and an assessment becoming final and conclusive by virtue of *section 416 (6)* of that Act; 20

“due date for the payment of an amount of preliminary tax” has the meaning assigned to it by *section 18 (1)*; 25

“inspector”, in relation to any matter, includes such other officer as the Revenue Commissioners shall appoint in that behalf;

“inspector of returns” means the inspector nominated by the Revenue Commissioners under *section 10 (11)* to be the inspector of returns; 30

“precedent partner” has the same meaning as in Chapter III of Part IV of the Income Tax Act, 1967;

“prescribed form” means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners and includes a form which involves the delivery of a return by any electronic, photographic or other process approved of by the Revenue Commissioners; 35

“preliminary tax” means the amount of tax which a chargeable person is required to pay in accordance with the provisions of *section 11*;

“relevant chargeable period” means— 40

- (a) where the chargeable period is a year of assessment, the year 1988-89 and any subsequent year of assessment, or
- (b) where the chargeable period is an accounting period of a company, an accounting period ending on or after such a date as may be prescribed by the Minister for Finance by regulations; 45

“specified return date for the chargeable period” means, in relation to a relevant chargeable period—

- (a) where the chargeable period is a year of assessment, the 31st day of December in the year, and 50

(b) where the chargeable period is an accounting period of a company, the last day of the period of 9 months commencing on the day immediately following the end of the accounting period;

5 “specified sections” has the same meaning as in section 48 of the Finance Act, 1986;

“tax” has the meaning assigned to it by paragraph 1 (3) of the First Schedule to the Corporation Tax Act, 1976.

10 (2) Except in so far as it is otherwise expressly provided, the provisions of this Chapter shall apply notwithstanding any other provisions of the Tax Acts or the Capital Gains Tax Acts.

15 (3) (a) Where any obligation or requirement is imposed on a person in any capacity under any of the provisions of this Chapter and a corresponding obligation or requirement is imposed upon that person in another capacity, the discharge of any one of those obligations or requirements shall not release the person from the other obligation or requirement.

20 (b) A person shall not, in any capacity, have an obligation or requirement imposed upon him under the provisions of this Chapter by reason only that he has such obligation or requirement imposed upon him in any other capacity.

25 (c) Where, but for any of the subsequent provisions of this Chapter, a person would have had any such obligation or requirement imposed upon him in more than one capacity, a release from such obligation or requirement under any of those provisions by reason of any fact or circumstance applying in relation to his liability to tax in any one capacity shall not release him from such obligation or requirement as is imposed upon him in a capacity other than that in which that fact or circumstance applies.

30 (4) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

40 **10.—(1)** Every chargeable person shall, as respects a relevant chargeable period, prepare and deliver to the appropriate inspector on or before the specified return date for the chargeable period, a return in the prescribed form of—

Obligation to make a return.

45 (a) in the case of a chargeable person, who is chargeable to income tax for a chargeable period which is a year of assessment, all such matters and particulars as would be required to be contained in a statement delivered pursuant to a notice given to the chargeable person by the appropriate inspector under section 169 of the Income Tax Act, 1967, if the period specified in such notice were the year of assessment immediately preceding the relevant chargeable period, and where the chargeable person is an individual who is chargeable to income tax for a relevant chargeable period, in addition to such matters and particulars as aforesaid, all such matters and particulars as would be

required to be contained in a return for the period delivered to the appropriate inspector pursuant to a notice given to the chargeable person by the appropriate inspector under section 172 of the said Act, or

(b) in the case of a chargeable person who is chargeable to corporation tax for a relevant chargeable period which is an accounting period, all such matters and particulars in relation to the chargeable period as would be required to be contained in a return delivered pursuant to a notice given by the appropriate inspector to the chargeable person under section 143 of the Corporation Tax Act, 1976, 5
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and such further particulars as may be required by the prescribed form.

(2) The precedent partner of any partnership shall be deemed to be a chargeable person for the purposes of this section and shall, as respects any relevant chargeable period, deliver to the appropriate inspector on or before the specified return date for that chargeable period the return which he would be required to deliver for that period under the provisions of section 70 of the Income Tax Act, 1967, if the inspector had given notice under that section before the said specified date. 15
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(3) If, by reason of *subsection (1) or (2)*, a person delivers a return to an inspector, he shall be deemed to have been required by a notice under section 169 of the Income Tax Act, 1967, to deliver a statement containing the matters and particulars contained in the return or to have been required by a notice under section 70 or 172 of the said Act or under section 143 of the Corporation Tax Act, 1976, to deliver the return, as the case may be. Any provision of the Tax Acts relating to the taking of any action on the failure of a person to deliver a statement or return pursuant to a notice given under any of the aforementioned sections shall apply to a chargeable person, in a case where such a notice has not been given, as if he had been given a notice, on the specified return date for the relevant chargeable period, under such one or more of those sections as is appropriate to the provision in question. 25
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(4) A chargeable person shall prepare and deliver to the appropriate inspector a return for a relevant chargeable period as required by this section notwithstanding that he has not received a notice from an inspector to prepare and deliver a statement or return for that period under any of the sections referred to in *subsection (3)*. 40

(5) A return required by this section may be prepared and delivered by the chargeable person or by another person acting under the chargeable person's authority in that regard. Where a return is prepared and delivered by such other person, the provisions of the Tax Acts shall apply as if it had been prepared and delivered by the chargeable person. A return purporting to be prepared and delivered by or on behalf of any chargeable person shall, for all the purposes of the Tax Acts, be deemed to have been prepared and delivered by that person or by his authority, as the case may be, unless the contrary is proved. 45
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(6) An inspector may exclude a person from the provisions of this section by giving him a notice in writing stating that he is excluded from those provisions and the notice shall have effect for such chargeable period or periods or until such chargeable period or until the happening of such event as shall be specified in the notice: 55

Provided that, where, before the passing of this Act, a person has

been given notice by the inspector that he need not prepare and deliver a return for or until a specified chargeable period or until the happening of any event, he shall be deemed to have been given notice to that effect under this subsection.

5 (7) This section shall not affect the giving of a notice by an inspector under any of the specified sections and shall not remove from any person any obligation or requirement imposed on the person by such a notice. The giving of a notice under any of the specified sections to
10 a person shall not remove from that person any obligation to prepare and deliver a return under the provisions of this section.

(8) In a case to which section 197 (4) of the Income Tax Act, 1967, applies, a return containing for both the husband and the wife the matters and particulars required by *subsection (1)* shall, if delivered by one spouse, satisfy the obligation of the other spouse under this
15 section.

(9) Nothing in the specified sections or in a notice given under any of those sections shall operate so as to require a chargeable person to deliver a return for a relevant chargeable period on a date earlier than the specified return date for the chargeable period.

20 (10) A certificate signed by an inspector which certifies that he has examined the relevant records and that it appears from them that, during a stated period, a stated return was not received from a chargeable person shall be evidence until the contrary is proved that the chargeable person did not, during that period, deliver that return
25 and a certificate certifying as provided by this subsection and purporting to be signed by an inspector may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by such inspector.

30 (11) (a) The Revenue Commissioners may nominate an inspector to be the inspector of returns for the purposes of this Chapter.

(b) The inspector of returns shall take delivery of returns under this section directed by him to be delivered to him and returns from persons in relation to whom he is the
35 appropriate inspector in the circumstances specified in *paragraph (c)* of the definition of "appropriate inspector" in *section 9 (1)*.

(c) The name of an inspector nominated as aforesaid and the address to which returns being delivered to him shall be directed shall be published annually in the *Iris Oifigiúil*.
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(12) Sections 500 and 503 of the Income Tax Act, 1967, shall apply to a failure by a chargeable person to deliver a return in accordance with *subsection (1)* or *(2)* as they apply to a failure to deliver a return referred to in the said section 500 and Schedule 15 to that Act is
45 hereby amended by the insertion in Column 1 of "*Finance Act, 1988, section 10 (1) and (2)*".

11.—(1) Every person who is a chargeable person as respects any relevant chargeable period shall be liable to pay to the Collector in accordance with this section and *section 18* the amount of his preliminary tax appropriate to that chargeable period.
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Obligation to pay preliminary tax.

(2) The amount of a chargeable person's preliminary tax appropriate to a chargeable period is the amount of tax which, in the opinion of the chargeable person, is likely to become payable by him

for the chargeable period by reason of an assessment or assessments for the chargeable period made or to be made by the inspector or which would be made by the inspector if he did not elect pursuant to *section 13 (4)* not to make an assessment.

(3) Preliminary tax shall be payable notwithstanding that the inspector has not given notice in respect of that tax under *section 12*. 5

(4) Where, on or before the due date for the payment of an amount of preliminary tax appropriate to a chargeable period, the chargeable person by whom the tax is payable has received notice of an assessment for the period, he shall not be liable to pay preliminary tax for that chargeable period. 10

(5) Any amount of preliminary tax appropriate to a chargeable period which is paid by, and not repaid to, a chargeable person in any capacity shall, to the extent of the amount of that payment or the extent of the amount of that payment less any amount that has been repaid, be treated as a payment on foot of the tax payable by the chargeable person for the chargeable period, being tax which is specified in an assessment or assessments made or to be made for that period on the chargeable person in that capacity. 15

Notices of preliminary tax.

12.—(1) Where— 20

(a) a chargeable person defaults in the making of a payment of preliminary tax for a relevant chargeable period, or

(b) at any time prior to the due date for the payment of an amount of preliminary tax for a relevant chargeable period, the inspector considers it appropriate to do so, 25

the inspector may give notice in writing to the chargeable person of the amount of the preliminary tax which, in the opinion of the inspector, ought to be paid by the chargeable person for that chargeable period:

Provided that a notice shall not be given under this subsection to a chargeable person for a relevant chargeable period at any time after the chargeable person has delivered a return for that chargeable period. 30

(2) Subject to the subsequent provisions of this section, an amount of preliminary tax specified in a notice under *subsection (1)* shall be due and payable to the Collector by the chargeable person on the due date for the payment of an amount of preliminary tax for the relevant chargeable period to which the notice relates. 35

(3) Subject to *subsection (4)*, where, on or before the specified return date for a chargeable period, the chargeable person makes a payment of preliminary tax for the chargeable period under *section 11*, or on or before that date the chargeable person gives notice in writing to the Collector that he considers that he will not have a liability to pay tax for the chargeable period by reason of any assessment or assessments made or to be made by the inspector, the amount of preliminary tax for the chargeable period specified in a notice given to the chargeable person under *subsection (1)*, or the excess, if any, of that amount over the preliminary tax paid by the chargeable person for the chargeable period, shall not be payable. 40 45

(4) Where the chargeable person defaults in delivering a return for a relevant chargeable period to which a notice of preliminary tax under *subsection (1)* relates and the amount of preliminary tax specified in 50

the notice, as increased under the provisions of section 48 of the Finance Act, 1986, is greater than the amount, if any, of the preliminary tax paid by the chargeable person under *section 11*, as also increased under the provisions of the said section 48, *subsection (3)* shall, with effect from the specified return date for the chargeable period, not apply to that chargeable person for the chargeable period and the amount of preliminary tax specified in the notice, as increased under the provisions of the said section 48 but reduced by any preliminary tax paid by the chargeable person in the capacity to which the notice relates for the chargeable period, shall become due and payable in all respects as if *subsection (3)* had not been enacted.

(5) Notwithstanding the foregoing provisions of this section, an amount of preliminary tax, or any excess of that amount over the amount, if any, of the preliminary tax paid by the chargeable person for the relevant chargeable period to which the notice relates, specified in a notice given under *subsection (1)* shall cease to be due and payable as on and from the date on which the inspector makes an assessment on the chargeable person for that relevant chargeable period:

Provided that, where action for the recovery of an amount of preliminary tax specified in a notice given under *subsection (1)*, being action by way of the institution of proceedings in any court or the issue of a certificate under section 485 of the Income Tax Act, 1967, has been taken, this subsection shall not apply to that amount of preliminary tax.

(6) Subject to the foregoing provisions of this section, the amount of preliminary tax specified in a notice given under *subsection (1)* shall be collected and paid in all respects as if it were tax charged by an assessment in respect of which no appeal was pending. Section 113 of the Finance Act, 1986, shall apply in all respects to an amount of preliminary tax specified in a notice under *subsection (1)* as if it were an amount of tax specified in an assessment. Section 537 of the Income Tax Act, 1967, shall apply to preliminary tax specified in a notice as it applies to tax specified in an assessment.

(7) Where the amount of preliminary tax paid by a chargeable person for any chargeable period exceeds his tax liability for that period, the excess shall be repaid and the amount repaid shall carry interest at the rate at which it would carry interest if it were an amount of tax repaid under the provisions of section 30 (4) of the Finance Act, 1976:

Provided that—

- (a) interest shall not be payable under this subsection if it amounts to less than £10, and
- (b) income tax shall not be deductible on payment of interest under this subsection and such interest shall not be reckoned in computing income for the purposes of the Tax Acts.

(8) Where for a relevant chargeable period a notice of preliminary tax has been given to a person by the inspector and the inspector is satisfied that—

- (a) the person being a chargeable person has discharged all his tax liability for the chargeable period,
- (b) the person is not a chargeable person as respects that chargeable period, or
- (c) it is appropriate to do so,

he may reduce the amount of preliminary tax specified in the notice given to the person to such amount, including nil, as the inspector deems appropriate having regard to the circumstances of the case.

(9) Where a provision of this section has the effect of providing that any preliminary tax specified in a notice under *subsection (1)* ceases to become payable, the provision shall not have the effect of removing from any chargeable person an obligation imposed upon him by *section 11* to pay an amount of preliminary tax. 5

(10) Section 190 of the Income Tax Act, 1967, shall, with any necessary modifications, apply to notices of preliminary tax under this section as it applies to assessments. 10

Making of assessments.

13.—(1) An assessment shall not be made on a chargeable person for a relevant chargeable period at any time before the specified return date for the chargeable period unless at that time the chargeable person has delivered a return for the chargeable period and an assessment shall not be made at a time when the making of the assessment is precluded under the provisions of *section 14 (2)*. 15

(2) Subject to *subsection (3)*, an assessment made on a chargeable person for a relevant chargeable period shall be made by the inspector by reference to the particulars contained in the chargeable person's return and, where appropriate, having regard to the provisions of *section 20*. 20

(3) If—

(a) a chargeable person makes default in the delivery of a return for a relevant chargeable period, or 25

(b) the inspector is not satisfied with the return which has been delivered, or has received any information as to its insufficiency,

nothing in this section shall prevent the inspector from making an assessment in accordance with the provisions of *section 184* of the Income Tax Act, 1967, or *section 144 (4)* of the Corporation Tax Act, 1976, as appropriate. 30

(4) Where, as respects a relevant chargeable period, the inspector is satisfied that a chargeable person has paid all amounts of tax which, if he were to make an assessment on the chargeable person for that relevant chargeable period, would be payable by the chargeable person for the relevant chargeable period, the inspector may elect not to make an assessment on the chargeable person for that chargeable period and, where he so elects, he shall give notice of the election to the chargeable person and the amounts paid by the chargeable person shall be deemed to have been payable in all respects as if the inspector had made the assessment: 35 40

Provided that, subject to *section 14 (2)*, nothing in this subsection shall prevent an inspector from making an assessment on the chargeable person for that relevant chargeable period at any time after the giving of the notice of election under this section. 45

(5) Where the inspector makes an assessment—

(a) under any of the provisions referred to in *subsection (3)*, in default of the delivery of a return, or

(b) in circumstances where the chargeable person has calculated 50

the amount of tax which will be payable by him on foot of an assessment and the inspector does not at the time of the making of the assessment disagree with the tax as so calculated,

- 5 it shall not be necessary to set forth in the notice of assessment any particulars other than particulars as to the amount of tax to be paid by the chargeable person.

- (6) Notwithstanding the foregoing provisions of this section, but subject to *section 14 (2)*, where a chargeable person has delivered a return for a relevant chargeable period, he may, by notice in writing given to the inspector, require him to make an assessment for that relevant chargeable period and the inspector shall make the assessment forthwith.

- 14.—(1) Subject to *subsection (2)* and to section 211 of the Income Tax Act, 1967, an inspector may, at any time, amend an assessment made on a chargeable person for a relevant chargeable period by making such alterations therein or additions thereto as he thinks necessary, notwithstanding that tax may have been paid or repaid in respect of the assessment and notwithstanding that he may have amended the assessment on a previous occasion or on previous occasions and he shall give notice to the chargeable person of the assessment as so amended.
- Amendment of and time limit for assessments.

- (2) Where a chargeable person has delivered a return for a relevant chargeable period and has made in the return a full and true disclosure of all material facts necessary for the making of an assessment for the relevant chargeable period, an assessment for that period or an amendment of such an assessment shall not be made on the chargeable person after the end of the period of 6 years commencing at the end of the chargeable period in which the return is delivered and no additional tax shall be payable by the chargeable person and no tax shall be repaid to the chargeable person after the end of the period of 6 years by reason of any matter contained in the return:

Provided that nothing in this subsection shall prevent the amendment of an assessment—

- (a) where a relevant return does not contain a full and true disclosure of the aforementioned facts,
- (b) to give effect to a determination upon any appeal against an assessment,
- (c) to take account of any fact or matter arising by reason of an event occurring after the return is delivered,
- (d) to correct an error in calculation,
- (e) to correct a mistake of fact whereby any matter in the assessment does not properly reflect the facts disclosed by the chargeable person, or
- (f) to give effect to the provisions of *section 20 (2)*,

and tax shall be paid or repaid, where appropriate, in accordance with any such amendment and nothing in this section shall affect the operation of section 455 (3) of the Income Tax Act, 1967, or section 54 (4) (b) of the Finance Act, 1974.

- (3) A chargeable person who is aggrieved by an assessment or the

amendment of an assessment on the grounds that he considers that the inspector was precluded from making the assessment or the amendment, as the case may be, by reason of the provisions of *subsection (2)* may appeal against the assessment or amended assessment on those grounds and if, on the hearing of the appeal, the Appeal Commissioners determine that the inspector was so precluded, all the provisions of the Tax Acts shall apply as if the assessment or the amendment, as the case may be, had not been made and the assessment or the amendment of the assessment, as appropriate, shall be void. If the Appeal Commissioners determine that the inspector was not so precluded, the assessment or the assessment as amended shall stand good, save to the extent that any amount or matter therein is the subject of a valid appeal on any other grounds.

(4) Where the chargeable person is in doubt as to the application of law to or the treatment for tax purposes of any matter to be contained in a return to be delivered by him, he may deliver the return to the best of his belief as to the application of law to or the treatment for tax purposes of that matter but he shall draw the inspector's attention to the matter in question in the return by specifying the doubt and, if he so does, he shall be treated as making a full and true disclosure with regard to that matter:

Provided that this subsection shall not apply where the inspector is or, on appeal, the Appeal Commissioners are, not satisfied that the doubt was genuine and is or are of the opinion that the chargeable person was acting with a view to the evasion or avoidance of tax and in such a case the chargeable person shall be deemed not to have made a full and true disclosure with regard to the matter in question.

(5) Section 186 of the Income Tax Act, 1967, and section 144 (5) (a) of the Corporation Tax Act, 1976, shall not apply in the case of a chargeable person for any relevant chargeable period and all matters which would have been included in an additional first assessment under those sections shall be included in an amendment of the first assessment or first assessments made in accordance with this section and, for this purpose, where any amount of income, profits or gains was omitted from the first assessment or first assessments or the tax stated in the first assessment or first assessments was less than the tax payable by the chargeable person for that chargeable period, there shall be made such adjustments or additions (including the addition of a further first assessment) to the first assessment or first assessments as are necessary to rectify the omission or to ensure that the tax so stated is equal to the tax so payable by the chargeable person.

Inspector's right to make enquiries and amend assessments.

15.—(1) For the purpose of making an assessment on a chargeable person for a relevant chargeable period or for the purpose of amending such an assessment, the inspector may accept either in whole or in part any statement or other particular contained in a return delivered by the chargeable person for that chargeable period and he may assess any amount of income, profits or gains or allow any deduction, allowance or relief by reference to such statement or particular; but the making of an assessment or the amendment of an assessment by reference to any such statement or particular contained in the chargeable person's return shall not preclude the inspector from making such enquiries or taking such actions, within his powers, as he considers necessary to satisfy himself as to the accuracy or otherwise of that statement or particular and, subject to *section 14 (2)*, shall not preclude the inspector from amending or further amending an assessment in such manner as he considers appropriate:

Provided that any such enquiries and any such actions shall not be made in the case of any chargeable person for any relevant chargeable

period at any time after the expiry of the period of 6 years commencing at the end of the chargeable period in which the chargeable person has delivered a return for the relevant chargeable period unless at that time the inspector has reasonable grounds for believing that the return is insufficient due to its having been completed in a fraudulent or negligent manner.

(2) A chargeable person who is aggrieved by any enquiry made or action taken by an inspector for a chargeable period, after the expiry of the period referred to in the proviso to *subsection (1)* in respect of that chargeable period, on the grounds that he considers that the inspector is precluded from making that enquiry or taking that action by reason of the proviso to *subsection (1)* may, by notice in writing given to the inspector within 30 days of the inspector making that enquiry or taking that action, appeal to the Appeal Commissioners and the Appeal Commissioners shall hear the appeal in all respects as if it were an appeal against an assessment. Any action required to be taken by the chargeable person and any further action proposed to be taken by the inspector pursuant to the inspector's enquiry or action shall be suspended pending the determination of the appeal. If on the hearing of the appeal the Appeal Commissioners determine that the inspector was so precluded, the chargeable person shall not be required to take any action pursuant to the inspector's enquiry or action and the inspector shall be prohibited from pursuing his enquiry or action. If the Appeal Commissioners decide that he was not so precluded, it shall be lawful for the inspector to continue with his enquiry or action.

16.—Section 48 of the Finance Act, 1986, shall have effect, as respects any chargeable person for a relevant chargeable period, as if the definition of "return of income" in the said section 48 included the return which the chargeable person is required to deliver under the provisions of *section 10* and as if references to the specified date in relation to a return of income were references to the specified return date for the chargeable period for which a return is to be delivered and it shall apply in relation to an amount of preliminary tax, whether paid under *section 11* or specified in a notice under *section 12*, as it applies to an amount of tax specified in an assessment.

Application of section 48 (surcharge for late submission of returns) of Finance Act, 1986.

17.—(1) No appeal may be made against—

Appeals.

(a) a notice of preliminary tax under *section 12*,

(b) the amount of any income, profits or gains or the amount of any allowance, deduction or relief specified in an assessment or an amended assessment made on a chargeable person for a relevant chargeable period where the inspector has determined that amount by accepting without the alteration of and without departing from the statement or statements or the particular or particulars with regard to income, profits or gains or allowances, deductions or reliefs specified in the return delivered by the chargeable person for that chargeable period, or

(c) the amount of any income, profits or gains or the amount of any allowance, deduction or relief specified in an assessment or an amended assessment made on a chargeable person for a relevant chargeable period where that amount had been agreed between the inspector and the chargeable person, or any person authorised by the chargeable person in that behalf, prior to the making of the assessment or the amendment of the assessment, as the case may be.

(2) (a) Where—

- (i) a chargeable person makes default in the delivery of a return, or
- (ii) the inspector is not satisfied with the return which has been delivered by a chargeable person, or has received any information as to its insufficiency, 5

and the inspector makes an assessment in accordance with any of the provisions referred to in *section 13 (3)*, no appeal shall lie against that assessment until such time as— 10

- (I) in a case to which *paragraph (a) (i)* applies, the chargeable person delivers the return, and
- (II) in a case to which either *subparagraph (i)* or *(ii)* of *paragraph (a)* applies, the chargeable person pays or has paid an amount of tax on foot of the assessment which is not less than the tax which would be payable on foot of the assessment if the assessment were made in all respects by reference to the statements and particulars contained in the return delivered by the chargeable person, 15 20

and the time for bringing an appeal against the assessment shall be treated as commencing at the earliest date on which both the return has been delivered and the said amount of tax has been paid and references in this subsection to an assessment shall be construed as including references to any amendment of the assessment which is made before the said earliest date. 25

- (b) References in this subsection to an amount of tax shall be construed as including any amount of interest which would be due and payable under *section 550* of the *Income Tax Act, 1967*, on that tax at the date of payment of the tax together with any costs incurred or other amounts which may be charged or levied in pursuing the collection of the tax contained in the assessment or the assessment as amended, as the case may be. 30 35

(3) Subject to the foregoing provisions of this section, where an assessment is amended under *section 14* (not being an amendment made by reason of the determination of an appeal), the chargeable person may appeal against the assessment as so amended in all respects as if it were an assessment made on the date of the amendment and the notice of the assessment as so amended were a notice of the assessment, save that the chargeable person shall have no further right of appeal, in relation to matters other than additions to, deletions from, or alterations in the assessment, made by reason of the amendment, than he would have had if the assessment had not been amended. 40 45

(4) Where an appeal is brought against an assessment or an amended assessment made on a chargeable person for any relevant chargeable period, the chargeable person shall specify in the notice of appeal— 50

- (a) each amount or matter in the assessment or amended assessment with which he is aggrieved, and

(b) the grounds, in detail, of his appeal as respects each such amount or matter.

5 (5) Where, as respects an amount or matter to which a notice of appeal relates, the notice does not comply with the provisions of *subsection (4)*, the notice shall, in so far as it relates to that amount or matter, be invalid and the appeal concerned shall, in so far as it relates to that amount or matter, be deemed not to have been brought.

10 (6) The chargeable person shall not be entitled to rely on any ground of appeal that is not specified in the notice of appeal unless the Appeal Commissioners, or the judge of the Circuit Court, as the case may be, are or is satisfied that the ground could not reasonably have been stated in the notice.

18.—(1) Preliminary tax appropriate to a relevant chargeable period shall be due and payable— Date for payment of tax.

15 (a) where the chargeable period is a year of assessment, on or before the 1st day of October in that year of assessment, or

20 (b) where the chargeable period is an accounting period of a company, within the period of 6 months from the end of the accounting period,

and references in this Chapter to the due date for the payment of an amount of preliminary tax shall be construed as references to the 1st day of October in the relevant year of assessment or the last day of that period of 6 months, as the case may be.

25 (2) Subject to *subsection (3)*, tax specified in an assessment made on a chargeable person for a relevant chargeable period shall be due and payable—

30 (a) where the assessment is made before the due date for the payment of an amount of preliminary tax for the chargeable period, on or before that date, or

(b) where the assessment is made on or after that date, on the day next after the day on which the assessment is made.

35 (3) Where, but for this subsection, tax specified in an assessment made on a chargeable person for a relevant chargeable period would be due and payable on the day next after the day on which the assessment is made and—

(a) the chargeable person has defaulted in the payment of preliminary tax for that chargeable period,

40 (b) the preliminary tax paid by the chargeable person for the chargeable period is less than 90 per cent. of the tax payable by the chargeable person for the chargeable period, or

45 (c) the preliminary tax payable by the chargeable person for the chargeable period was not paid within one month of the date on which it was due and payable,

the tax specified in the assessment shall be deemed to have been due and payable on the due date for the payment of an amount of preliminary tax for the chargeable period.

(4) Subject to *subsection (5)*, any additional tax due by reason of the amendment of an assessment for a relevant chargeable period shall be deemed to be due and payable on the same day as the tax charged by the assessment prior to its amendment was due and payable:

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Provided that if—

(a) the assessment was made after the chargeable person had delivered a return containing a full and true disclosure of all material facts necessary for the making of the assessment, or

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(b) the assessment had previously been amended following the delivery of the return containing such disclosure,

the additional tax so due shall be deemed to have been due and payable on the day immediately following the date of the amendment.

(5) The amount by which the tax, found to be payable for a relevant chargeable period on the determination of an appeal against an assessment made on a chargeable person for the chargeable period, is in excess of the amount of the tax for the chargeable period referred to in *section 17 (2) (a) (ii) (II)* which the chargeable person had paid prior to the making of the appeal, shall be deemed to be due and payable on the same date as the tax charged by the assessment is due and payable:

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Provided that—

(a) where the tax which the chargeable person had so paid is not less than 90 per cent. of the tax so found to be payable on the determination of the appeal, and

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(b) where the tax charged by the assessment was due and payable in accordance with the provisions of *subsection (2)*,

the said excess shall be deemed to be due and payable on the date of the determination of the appeal.

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Interest.

19.—(1) Subsection (2A) of section 550 of the Income Tax Act, 1967, shall not apply to an assessment made on a chargeable person for a relevant chargeable period.

(2) The said section 550 is hereby amended by the substitution of “one month” for “two months” in each place where it occurs.

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Estimation of certain amounts.

20.—(1) Where, in the case of a chargeable person who is chargeable to income tax for a relevant chargeable period (hereafter in this section referred to as “the first period”)—

(a) the total income of the chargeable person for the first period includes income from any source or sources which falls to be computed on the basis of the actual amounts receivable in the first period or where, in the first period, any deductions allowable on account of any sums paid out of the profits or gains of the chargeable person fall to be allowed as deductions in respect of the chargeable period in which they are payable, and

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(b) at any time before the delivery by the chargeable person of

5 a return for the immediately succeeding chargeable period, a computation of the tax payable by the chargeable person for the first period falls to be made by the inspector or the chargeable person or an assessment for the first period is being made or amended by the inspector,

the inspector or the chargeable person, as the case may be, shall make the computation, assessment or amendment, as the case may be, on the basis that—

10 (i) the amount of income from the source or each source referred to in *paragraph (a)* is an amount equivalent to the amount of the income from the source or each source receivable in the chargeable period immediately preceding the first period, and

15 (ii) the amount of the deductions referred to in *paragraph (a)* is an amount equivalent to the amount of those deductions in the chargeable period immediately preceding the first period.

(2) Where the chargeable person gives to the inspector particulars of the correct amount of the income or deductions referred to in *subsection (1) (a)*, the inspector shall adjust any computation or assessment by reference to the difference between the correct amount and the amount which, by reason of *subsection (1)*, was included in the computation or assessment and any amount of tax overpaid shall be repaid and any amount of tax underpaid shall be paid.

25 (3) An amount of tax repaid under *subsection (2)* shall be repaid with interest in all respects as if it were a repayment of preliminary tax under *section 12 (7)*. Interest shall not be charged under *section 550* of the Income Tax Act, 1967, on any amount of tax underpaid under the provisions of this section unless the amount is not paid within
30 one month of the date on which the amount of the underpayment is notified to the chargeable person by the inspector and the amount of tax so unpaid shall not be treated as part of the tax payable for the chargeable period for the purposes of *section 18 (3) (b)*.

35 (4) For the purposes of *section 17 (1) (b)*, where for any relevant chargeable period an amount of income or deduction specified in an assessment or an amended assessment made on a chargeable person has been computed in accordance with the provisions of *subsection (1)*, the inspector shall be deemed to have determined that amount by accepting without alteration of or departing from the statement or
40 particulars with regard to that amount specified in the chargeable person's return for that chargeable period.

(5) *Section 528* of the Income Tax Act, 1967, shall not apply to a chargeable person as respects any relevant chargeable period.

45 21.—(1) *Section 211* of the Income Tax Act, 1967, shall apply to an amendment of an assessment under *section 14* as it applies to an additional first assessment under *section 186* of that Act. Miscellaneous.

(2) *Section 509* of the Income Tax Act, 1967, shall have effect as if the definition of "assessment" included an assessment as amended under the provisions of *section 14*.

50 (3) Where the inspector or any other officer of the Revenue Commissioners acting with the knowledge of the inspector causes to issue, by any electronic, photographic or other process, a notice of

preliminary tax bearing the name of the inspector or a notice of assessment or a notice of an amendment of an assessment bearing the name of the inspector, the said notice of preliminary tax shall, for all the purposes of the Tax Acts, be deemed to have been given by the inspector to the best of his opinion and the said assessment or amended assessment to which the notice of assessment or notice of amended assessment relates, as the case may be, shall, for those purposes, be deemed to have been made by the inspector to the best of his judgment. 5

(4) An assessment which is otherwise final and conclusive shall not, for any purpose of the Tax Acts, be regarded as not final and conclusive or as ceasing to be final and conclusive by reason only of the fact that the inspector has amended or may amend the assessment pursuant to the provisions of *section 14* and where, in the case of a chargeable person, the inspector elects under *section 13 (4)* not to make an assessment for a chargeable period, the provisions of the Tax Acts shall apply as if an assessment for that chargeable period made on the chargeable person had become final and conclusive on the date the notice of election is given. 10 15

(5) The giving by a chargeable person of a notice pursuant to section 5 of the Finance (Miscellaneous Provisions) Act, 1968, shall not remove from the person an obligation to deliver a return under *section 10*. 20

(6) Section 30 of the Finance Act, 1976, shall not apply in relation to an assessment made on any person for a relevant chargeable period. 25

CHAPTER III

Income Tax, Corporation Tax and Capital Gains Tax

Exemption of certain payments by Minister for Labour and An Foras Áiseanna Saothair.

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

(2) This section applies to any payment made, whether before or after the passing of this Act, to a person, being a payment made under— 30

(a) the Enterprise Allowance Scheme or the Enterprise Scheme of the Minister for Labour, or

(b) the Enterprise Scheme of An Foras Áiseanna Saothair. 35

Farming: amendment of provisions relating to relief in respect of increase in stock values.

23.—(1) Section 31A (inserted by the Finance Act, 1976) of the Finance Act, 1975, is hereby amended by the substitution of "1988" for "1987" (inserted by the Finance Act, 1987)—

(a) in paragraph (iv) (inserted by the Finance Act, 1979) of the proviso to subsection (4) (a), and 40

(b) in each place where it occurs in subsections (7) and (9) (inserted by the Finance Act, 1984),

and the said paragraph (iv), the said subsection (7) (apart from the proviso) and the said subsection (9) (apart from the proviso), as so amended, are set out in the Table to this subsection. 45

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 after the 6th day of April, 1988.

(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 a date before the 6th day of April, 1988, be treated in the computation of the 50

company's trading income for the purposes of corporation tax, as a trading receipt of the company's trade for that accounting period:

5 (9) In the computation of a company's trading income for the purposes of corporation tax for any accounting period which ends on or after the 6th day of April, 1988, 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—

10 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, 1988,

B is the aggregate amount of the company's increases in stock value in all accounting periods which ended on or after the 6th day of April, 1988, and

15 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—

(a) by the substitution in subsection (3) of "1988-89" for "1987-88" (inserted by the Finance Act, 1987), and

20 (b) by the substitution of "1988" for "1987" (inserted by the Finance Act, 1987) in each place where it occurs in subsections (5) and (6) (inserted by the Finance Act, 1984),

25 and the said subsection (3), the said subsection (5) (apart from the proviso) and the said subsection (6) (apart from the proviso), as so amended, are set out in the Table to this subsection.

TABLE

30 (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 1988-89.

35 (5) In the computation of a person's trading profits 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, 1988, the amount of that decrease shall be treated as a trading receipt of the trade for that accounting period:

40 (6) In the computation of a person's trading profits for any accounting period in which there is a decrease in stock value and which ends on or after the 6th day of April, 1988, 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, 1988,

45 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, 1988, and

50 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, 1988:

(3) This section shall have effect only as respects a trade of farming.

55 24.—(1) (a) Sections 25 to 29 of the Finance Act, 1973, shall have effect, in relation to expenditure incurred on the provision or hiring of a vehicle to which those sections apply, as if for "£2,500", in each place where it occurs in those sections, there were substituted "£6,000".

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

(b) The reference in *paragraph (a)* to expenditure incurred on the provision or hiring of a vehicle does not include—

60 (i) as respects the said sections 25 to 27, a reference to expenditure incurred before the 28th day of January, 1988, or incurred within 12 months after

that day under a contract entered into before that day, and

- (ii) as respects subsections (2) and (3) of the said section 28 and the said section 29, a reference to expenditure under a contract entered into before the said 28th day of January, 1988. 5

(2) Section 32 of the Finance Act, 1976, shall have effect, in relation to qualifying expenditure (within the meaning of that section) incurred after the 27th day of January, 1988, as if for “£3,500”, in each place where it occurs, there were substituted “£6,000”. 10

Amendment of section 44 (allowance to owner-occupiers in respect of certain premises) of Finance Act, 1986.

25.—Section 44 of the Finance Act, 1986, is hereby amended by the deletion from the definition of “qualifying owner-occupied dwelling” in section (1) (a) of “other than the Custom House Docks Area”.

Designated areas for urban renewal relief: extension of certain time limits.

26.—The provisions of the Finance Act, 1986, specified in the Table to this section shall have effect as if, in the definition of “qualifying period”, the reference to the 31st day of May, 1989, were a reference to the 31st day of May, 1991. 15

TABLE

Subsection (1) of section 42 (allowance in relation to construction of certain commercial premises). 20

Subsection (1) (a) of section 44 (allowance to owner-occupier in respect of certain premises).

Subsection (1) (a) of section 45 (double rent allowance as a deduction in computing trading income). 25

Amendment of section 23 (deduction for certain expenditure on construction of rented residential accommodation) of Finance Act, 1981.

27.—(1) As respects expenditure to which this section applies, section 23 of the Finance Act, 1981, shall apply as if—

- (a) in subsection (1) (a) for the definition of “qualifying period” there were substituted the following definition—

“‘qualifying period’ means the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991;”, and 30

- (b) in the definition of “qualifying premises” in the said subsection (1) (a) “90 square metres” were substituted for “75 square metres”. 35

(2) This section applies to expenditure incurred in the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991, on the construction of a qualifying premises.

(3) This section shall be construed together with section 23 of the Finance Act, 1981. 40

Application of section 21 (rented residential accommodation: deduction for expenditure on refurbishment) of Finance Act, 1985, etc.

28.—As respects relevant expenditure (within the meaning of subsection (1) (a) of section 21 of the Finance Act, 1985) incurred in the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991, the said section 21 shall have effect as if— 45

- (a) in subsection (2) (a) (iii) for the definition of “qualifying period” there were substituted the following definition—

“‘qualifying period’ means the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991;”, and

- 5 (b) the proviso to section 29 (2) of the Finance Act, 1983, were deleted.

29.—With respect to expenditure incurred in the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991, section 22 of the Finance Act, 1985, shall have effect as if—

Application of section 22 (extension of relief for conversion of certain buildings) of Finance Act, 1985, etc.

- 10 (a) (i) in subsections (1) and (2) of the said section 22, for “commencing on the 1st day of April, 1985, and ending on the 31st day of March, 1987,” and

- 15 (ii) in section 30 (2) of the Finance Act, 1983, for “commencing on the 1st day of April, 1984, and ending on the 31st day of March, 1987,”

there were substituted “commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991,”,

- 20 (b) in subsection (4) of the said section 22 for the definition of “qualifying period” there were substituted the following definition—

“‘qualifying period’ means the period commencing on the 27th day of January, 1988, and ending on the 31st day of March, 1991;”,

25 and

- (c) the proviso to section 29 (2) of the said Finance Act, 1983, were deleted.

30.—(1) In this section—

- 30 “financial futures” and “traded options” mean, respectively, financial futures and traded options which are for the time being dealt in or quoted on a futures exchange or a stock exchange in the State.

Pension funds: extension of tax exemptions to dealings in financial futures and traded options.

(2) For the purposes of—

- (a) section 16 (2) of the Finance Act, 1972,
(b) section 21 (1) of the Capital Gains Tax Act, 1975, and
35 (c) section 41 (1) of the Corporation Tax Act, 1976,

a contract entered into in the course of dealing in financial futures or traded options shall be regarded as an investment.

31.—(1) The provisions of the Corporation Tax Act, 1976, specified in paragraph 1 of Part I of the Second Schedule shall have effect—

Tax credits in respect of distributions.

- 40 (a) in relation to distributions made in the year 1988-89, as if the standard rate for that year of assessment were 32 per cent., and

(b) in relation to distributions made on or after the 6th day of April, 1989, as if the standard rate for the year 1989-90 and subsequent years of assessment were 28 per cent.

(2) Part I of the *Second Schedule* shall have effect for the purpose of supplementing subsection (1). 5

Amendment of section 45 (distributions) of Finance Act, 1980.

32.—(1) Section 45 of the Finance Act, 1980, is hereby amended as respects distributions made by a company on or after the 6th day of April, 1989, by the substitution for subsections (1), (2) and (3) of the following subsections:

“(1) (a) There shall be treated as a specified distribution for the purposes of subsection (2) so much of a distribution (hereafter in this paragraph referred to as ‘the first-mentioned distribution’) treated under subsection (1A) as made by a company for an accounting period as is equal to the amount, which may be nil, determined by the formula 10 15

$$Y \times \frac{(A-B) + E-U}{(R-S) + T-U}$$

where, subject to sections 46 to 49—

A is the amount of the company’s income, the corporation tax referable to which is reduced under section 41, for the relevant accounting period which coincides with or is included in the accounting period, 20

B is the amount of the corporation tax, as reduced under section 41, referable to the amount mentioned in the definition of A, 25

E is the amount of the relevant distributions, whether made before the 6th day of April, 1989, or on or after that day, received by the company in the accounting period, which is included in its franked investment income of the accounting period, other than franked investment income against which relief is given under section 15 (4), 25 or 26 of the Corporation Tax Act, 1976, and which relief was not subsequently withdrawn under the provisions of those sections, 30 35

R is the amount of the income of the company charged to corporation tax for the accounting period as defined in section 28 (8) of the Corporation Tax Act, 1976, with the addition of any amount of income of the company which would be charged to corporation tax for the accounting period but for the provisions of section 18 of the Finance Act, 1969, section 34 of the Finance Act, 1973, or section 71 of the Corporation Tax Act, 1976, 40 45

S is the amount of the corporation tax which, before any set-off of, or credit for, tax, including foreign tax, and after any relief under section 58, 182 or 184 of the Corporation Tax Act, 1976, or section

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41 of the Finance Act, 1980, is chargeable for the accounting period, exclusive of the corporation tax, before any credit for foreign tax, chargeable on the part of the company's profits attributable to chargeable gains for that period: and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description,

10

15

T is the amount of the distributions received by the company in the accounting period which is included in its franked investment income of the accounting period, other than franked investment income against which relief is given under section 15 (4), 25 or 26 of the Corporation Tax Act, 1976, and which relief was not subsequently withdrawn under the provisions of those sections, with the addition of any amount received by the company in the accounting period to which the provisions of section 76 (2) (a) (ii), section 81 (4), section 93 (3) or section 170 (3) of the Corporation Tax Act, 1976, applies,

20

25

U is—

30

(i) the amount (hereafter in this definition referred to as the 'first-mentioned amount') of the distributable manufacturing income of the company for the accounting period reduced by the amount (hereafter in this definition referred to as the 'second-mentioned amount'), if any, by which the total amount of the distributable manufacturing income of the company for that period and for any preceding accounting periods of the company exceeds the total amount of the relevant distributions made by the company before the 6th day of April, 1989, or

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(ii) nil, if the second-mentioned amount is not less than the first-mentioned amount, and

Y is the amount of the first-mentioned distribution.

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(b) Any reference in this section to a relevant distribution made by a company before the 6th day of April, 1989, shall be construed as a reference to a relevant distribution within the meaning of this section before it was amended by the *Finance Act, 1988*.

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(1A) For the purposes of this subsection and subsections (1) and (2) and irrespective of the period of account for which a distribution is made by a company, a distribution or distributions, as the case may be, made by the company on a day (hereafter in this subsection referred to as the 'first-mentioned day') which is a day falling on or after the 6th day of April, 1989, shall be treated as having been made for the most recent accounting period of the company ending before the first-mentioned day:

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Provided that a distribution that is—

- (a) an interim dividend paid by the directors in respect of the profits of the accounting period in which it is paid, pursuant to powers conferred on them by the articles of association of the company, or
- (b) a distribution by virtue only of subparagraph (ii), (iii) (I) or (v) of section 84 (2) (d) of the Corporation Tax Act, 1976,

shall be treated as having been made for the accounting period in which the first-mentioned day falls:

Provided also that—

- (a) (i) where the first-mentioned day falls in an accounting period of the company which begins on the day on which the company commenced to be within the charge to corporation tax, the distribution or distributions, as the case may be, shall be treated as made for that accounting period and, where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for that accounting period would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, which has not or have not been made for any accounting period, and
- (ii) where the first-mentioned day falls on or after the first day of an accounting period of the company which ends on a day on which the company ceases to be within the charge to corporation tax, the distribution or distributions, as the case may be, shall be treated as made for that accounting period;
- (b) (i) where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for an accounting period, would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, made for the immediately preceding accounting period of the company, and
- (ii) where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for the immediately preceding accounting period referred to in subparagraph (i), would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, made for the next immediately preceding accounting period of the company and so on,

and

- 5 (c) where by virtue of the application of the provisions of this subsection to the distribution or distributions, as the case may be, made by the company on the first-mentioned day there is an excess such as is mentioned in this proviso, that excess—
- (i) where there is only one distribution made by the company on the first-mentioned day, shall be wholly attributed to that distribution, or
- 10 (ii) where there is more than one distribution so made on the first-mentioned day, shall be partly attributed to each of those distributions in the same respective proportion as the amount of each such distribution bears to the total amount of the
- 15 distributions made by the company on that day,
- so that any distribution made by the company on the first-mentioned day shall be treated as consisting of two or, if there is more than one such excess, more distributions each of which is made by the company
- 20 for a different accounting period (if any).

(1B) For the purposes of this section—

- (a) the amount of the distributable income of a company for an accounting period shall be the amount determined by the formula

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$$(R-S) + T-U$$

where R, S, T and U have the same meanings as in subsection (1), and

- (b) the amount of the distributable manufacturing income of a company for an accounting period shall be the amount determined by the formula

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$$(A-B) + E$$

where A, B and E have the same meanings as in subsection (1).

35 (2) Where, by virtue of subsections (1) and (1A), a distribution made by a company on or after the 6th day of April, 1989 (hereafter in this subsection referred to as the first-mentioned distribution) is treated, as the case may be, as—

- (i) consisting of, or including, a specified distribution, or
- 40 (ii) consisting of two or more distributions, one or more of which is treated as consisting of, or including, a specified distribution,

the first-mentioned distribution shall, notwithstanding any other provision of the Corporation Tax Acts, be treated for the purposes of those Acts as if it consisted of two distributions, either, but not both, of which may be nil, being respectively—

- 45 (a) a distribution which shall be a relevant distribution for the purposes of this section of an amount equal

to the amount of the specified distribution mentioned in paragraph (i) or equal to the total amount of the specified distributions mentioned in paragraph (ii), as the case may be, and

(b) a distribution which is not a relevant distribution and which consists of the balance of the first-mentioned distribution. 5

(3) The tax credit to which a recipient of a relevant distribution is entitled in respect of it shall, notwithstanding any provision of the Corporation Tax Acts other than this section, be an amount equal to one-eighteenth of the amount of the relevant distribution.” 10

(2) (a) In this subsection “the specified day” means the day, being a day not earlier than the 6th day of April, 1988, specified in a notice under *paragraph (b)*. 15

(b) Where a company so elects by notice in writing given to the inspector, this section and section 45 of the Finance Act, 1980 (as amended by this section), shall have effect as respects any distributions made by the company on or after the specified day as if the date on which the specified day falls were substituted for “the 6th day of April, 1989” in each place where it occurs in this section, the said section 45 and *Part II* of the *Second Schedule*. 20

(3) *Part II* of the *Second Schedule* shall have effect for the purpose of supplementing *subsection (1)*. 25

CHAPTER IV

Corporation Tax

Rates of
corporation tax.

33.—(1) As respects any accounting period ending on or after the 1st day of April, 1988, section 1 of the Corporation Tax Act, 1976, is hereby amended by the substitution of the following subsection for subsection (1): 30

“(1) For the financial year 1974 and each subsequent financial year there shall be charged on profits of companies a tax, to be called corporation tax, at the rate of—

(a) 50 per cent. for— 35

(i) each financial year until and including the year 1987, and

(ii) that part of the financial year 1988 beginning on the 1st day of January, 1988, and ending on the 31st day of March, 1988; 40

(b) 47 per cent. for—

(i) that part of the financial year 1988 beginning on the 1st day of April, 1988, and ending on the 31st day of December, 1988, and

(ii) that part of the financial year 1989 beginning on the 1st day of January, 1989, and ending on the 31st day of March, 1989; 45

and

(c) 43 per cent. for—

- 5 (i) that part of the financial year 1989 beginning on the 1st day of April, 1989, and ending on the 31st day of December, 1989, and
- (ii) each subsequent financial year.”.

(2) Sections 28 and 79 of the Corporation Tax Act, 1976, shall not have effect for any accounting period ending on or after the 1st day of April, 1989.

10 (3) The *Third Schedule* shall have effect for the purpose of supplementing this section.

34.—Part XI of the Corporation Tax Act, 1976, is hereby amended by the insertion after section 116 of the following section:

Amendment of Part XI (group relief) of Corporation Tax Act, 1976.

“116A—(1) (a) In this section—

15 ‘trade’ means a trade carried on by a company which consists of or includes the manufacture of goods (including activities carried on in an accounting period which would, if the company had sufficient profits in that period and made a claim for relief in respect of the trade under Chapter VI of Part I of the Finance Act, 1980, for that period, fall to be regarded for the purposes of that Chapter as the manufacture of goods);

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25 ‘income from the sale of goods’ in an accounting period in the course of a trade carried on by a company shall, subject to section 118 as applied for the purposes of relief under this section, be such income as would be ‘the income from the sale of those goods’ in that period in the course of the trade for the purposes of a claim under section 41 (2) of the Finance Act, 1980, if—

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(i) no group relief under this section were allowed against income from the trade in that period,

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(ii) the company had sufficient profits, and

(iii) the company made a claim for relief under Chapter VI of Part I of the Finance Act, 1980;

40 ‘a loss from the sale of goods’ in the course of a trade in an accounting period shall be such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 41 (4) of the Finance Act, 1980, ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ for the purposes of subsection (3) of the said section were the amount of so much of the loss, computed as for the purposes

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of section 16 (2), from the trade in the period as appears to the inspector, or on appeal, to the Appeal Commissioners to be referable to a loss incurred in the sale of goods and merchandise:

Provided that a loss such as is mentioned in section 28 (4) (b) of the Finance Act, 1987, shall not be a loss from the sale of goods; 5

'charges on income paid for the purpose of the sale of goods' in the course of a trade in an accounting period shall be such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 41 (4) of the Finance Act, 1980, 'the company's income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise' for the purposes of subsection (3) of the said section were the amount of so much of the charges on income paid wholly and exclusively for the purposes of the trade in that period as appears to the inspector, or on appeal, to the Appeal Commissioners to be referable to charges on income paid for the purpose of the sale of goods and merchandise; 10 15 20

'an excess of charges on income paid for the purpose of the sale of goods' in the course of the trade in an accounting period shall be so much of an amount, being the amount by which the charges on income paid by a company for the purpose of the sale of goods in the course of the trade in that period exceed the income from the sale of goods in the course of the trade in that period, as does not exceed the excess referred to in section 116 (6) as computed for the company for that period; 25 30

'the sale of goods and merchandise' in the course of a trade carried on by a company shall mean the sale of such goods and merchandise as would respectively be treated as goods and merchandise for the purposes of a claim under Chapter VI of the Finance Act, 1980, if the company had a sufficiency of profits and had made such a claim. 35 40

(b) For the purposes of this section—

(i) where an accounting period begins before the 1st day of January, 1989, and ends on or after that date it shall be divided into one part, beginning on the date on which the accounting period begins and ending on the 31st day of December, 1988, and another part, beginning on the 1st day of January, 1989, and ending on the day on which the accounting period ends, and both parts of the accounting period shall be treated as if they were separate accounting periods, and 45 50 55

(ii) where an accounting period begins before the 1st day of January, 2001, and

ends on or after that date it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of December, 2000, and another part, beginning on the 1st day of January, 2001, and ending on the day the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

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(2) (a) Notwithstanding subsections (1) and (6) of section 116 and section 117, if, in any accounting period falling within the period from the 1st day of January, 1989, to the 31st day of December, 2000, the surrendering company incurs a loss from the sale of goods or an excess of charges on income paid for the purpose of the sale of goods, that loss or excess may be set off for the purposes of corporation tax against income from a trade of the claimant company for its corresponding accounting period to the extent of that income or, if it is less, to the extent of the income from the sale of goods in the course of the trade, but no other relief shall be given in respect of that loss or excess to a company other than the surrendering company.

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(b) Group relief allowed under paragraph (a) shall reduce the income from a trade of the claimant company for an accounting period—

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(i) before relief granted under section 18 (terminal loss in trade) in respect of a loss incurred in a succeeding accounting period or periods, and

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(ii) after relief granted under section 16 (relief for trading losses other than terminal loss) in respect of a loss incurred in a preceding accounting period or periods.

(3) (a) For the purposes of subsection (3) of section 41 of the Finance Act, 1980, 'the amount of the company's income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise' shall be determined in accordance with subsection (4) of the said section 41 as if no group relief had been allowed under this section.

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(b) Notwithstanding the provisions of subsection (3) of the said section 41, 'the income from the sale of those goods' in an accounting period for the purposes of subsection (2) of the said section 41 shall be the sum determined by subsection (3) of the said section 41 for that period reduced by any group relief allowed under this section against income of the trade mentioned in subsection (2) of the said section 41 in that period.

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(4) This section shall not apply to—

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(a) (i) a loss from the sale of goods in the course of a trade, or

(ii) an excess of charges on income paid for the purpose of the sale of goods in the course of a trade,

in an accounting period or part of an accounting period falling before the 6th day of April, 1990, if, in the latest preceding accounting period in which there was income from the trade in respect of which corporation tax was payable, the amount thereof was reduced under Part IV, or 5

(b) so much of a loss from the sale of goods in the course of a trade in an accounting period as does not exceed the amount of the capital allowances under section 42 (2) of the Finance Act, 1986, deducted by the surrendering company in computing the loss which it has incurred in that period in carrying on trading operations specified in a certificate given to it and not revoked by the Minister for Finance under section 39B (2) of the Finance Act, 1980. 10 15

(5) For the purposes of this section—

(a) in the case of a claim made by a company as a member of a consortium, only a fraction of a loss from the sale of goods or an excess of charges on income paid for the purpose of the sale of goods may be set off, and that fraction shall be equal to that member's share in the consortium, subject to any further reduction under section 118 (2), and 20

(b) section 118 shall have effect as if—

(i) for 'total profits' in paragraph (a) of subsection (2) there were substituted 'income from a trade', and 25

(ii) for 'the said profits' in paragraph (b) there were substituted 'the income from the sale of goods in the course of a trade of the claimant company'. 30

Amendment of section 39A (relief in relation to income from certain trading operations carried on in Shannon Airport) of Finance Act, 1980.

35.—Section 39A of the Finance Act, 1980, is hereby amended by the deletion of the proviso to subsection (2).

Amendment of section 39B (relief in relation to income from certain trading operations carried on in Custom House Docks Area) of Finance Act, 1980.

36.—(1) Subsection (7) (c) of section 39B (inserted by the Finance Act, 1987) of the Finance Act, 1980, is hereby repealed and shall be deemed never to have been enacted. 35

(2) Subject to the provisions of subsections (6) and (7) of the said section 39B, the Minister for Finance may give to a company a certificate, within the meaning of subsection (2) of that section, having effect from the date on which it would have had effect but for the said subsection (7) (c). 40

(3) Subsection (6) of the said section 39B is hereby amended by the insertion after paragraph (iii) of the following paragraph—

“(iii*a*) dealing in commodity futures or commodity options on behalf of persons not ordinarily resident in the State, other than on behalf of persons who— 45

(I) carry on a trade in which commodities of a type which

are the subject of the futures or options, as the case may be, are used in the course of the carrying on of the trade, or

5 (II) would be regarded for the purposes of the Corporation Tax Acts as connected with a person who carries on such a trade.”.

(4) (a) In this subsection—

“the Area” has the same meaning as it has for the purposes of the said section 39B;

10 “foreign life assurance business” means relevant trading operations within the meaning of the said section 39B consisting of life assurance business with policy holders and annuitants who reside outside the State;

15 “foreign unit trust business” means relevant trading operations within the meaning of the said section 39B consisting of the management of the investments of one or more qualifying unit trusts;

“qualifying unit trust” means a unit trust scheme—

20 (a) that is a registered unit trust scheme within the meaning of the Unit Trusts Act, 1972,

(b) the business of which—

(i) is carried on in the Area, or

25 (ii) is not so carried on but is carried on in the State and would be carried on in the Area but for circumstances outside the control of the person or persons carrying on the business,

and

30 (c) as respects which all holders of units in the scheme are persons resident outside the State;

“tax” means income tax, corporation tax or capital gains tax, as may be appropriate.

35 (b) Notwithstanding any other provision of the Tax Acts, the rate at which any tax is chargeable (before any credit is allowed for foreign tax) in respect of income arising or chargeable gains accruing from securities or possessions in any place outside the State that are investments of a foreign life assurance business or investments managed by a foreign unit trust business shall not exceed 10 per cent.

37.—(1) (a) This section applies to so much of any interest as—

(i) is a distribution by virtue only of section 84 (2) (d) (iv) of the Corporation Tax Act, 1976,

45 (ii) is payable by a qualified company in the course of carrying on relevant trading operations and would, but for the said section 84 (2) (d) (iv), be

Application of section 84 (matters to be treated as distributions) of Corporation Tax Act, 1976, to certain interest.

deductible as a trading expense in computing the amount of the company's income from the relevant trading operations, and

- (iii) is interest payable to a company which is a resident of the United States of America or of a territory with the government of which arrangements having the force of law by virtue of section 361 of the Income Tax Act, 1967, have been made. 5

(b) In *paragraph (a)*—

“qualified company” and “relevant trading operations” have the same meaning as they have for the purposes of section 39B (inserted by the Finance Act, 1987) of the Finance Act, 1980; 10

“resident of the United States of America” has the meaning assigned to it by the Convention set out in Schedule 8 to the Income Tax Act, 1967. 15

- (c) For the purposes of *paragraph (a)*, a company shall be regarded as being a resident of a territory other than the United States of America if it is so regarded under arrangements made with the government of that territory and having the force of law by virtue of section 361 of the Income Tax Act, 1967. 20

(2) Where a company proves that this section applies to any interest payable by it for an accounting period and elects to have that interest treated as not being a distribution for the purposes of section 84 (2) (d) (iv) of the Corporation Tax Act, 1976, the said section 84 (2) (d) (iv) shall not apply to that interest. 25

(3) An election under this section in relation to interest payable by a company for an accounting period shall be made in writing to the inspector and submitted together with the company's return of its profits for the period. 30

Amendment of section 31 (interest payments by companies and to non-residents) of Finance Act, 1974.

38.—Section 31 of the Finance Act, 1974, is hereby amended by the insertion in subsection (3), after *paragraph (c)*, of the following *paragraph*—

“(cc) interest paid to a person whose usual place of abode is outside the State by a company in the course of carrying on relevant trading operations within the meaning of section 39A (inserted by the Finance Act, 1981) or section 39B (inserted by the Finance Act, 1987) of the Finance Act, 1980, or”. 35 40

Exemption of certain income of Nítrigin Éireann Teoranta.

39.—Notwithstanding any provision of the Corporation Tax Acts, income—

(a) arising to Nítrigin Éireann Teoranta in any accounting period ending in the period commencing on the 1st day of January, 1987, and ending on the 31st day of December, 1992, from the business of supplying gas, purchased from Bord Gáis Éireann, to Irish Fertilizer Industries Limited under a contract between Nítrigin Éireann Teoranta and Irish Fertilizer Industries Limited, and 45

(b) which, but for this section, would have been chargeable to corporation tax under Case I of Schedule D, 50

shall be exempt from corporation tax.

40.—(1) Subsection (1) of section 28 of the Finance Act, 1987, is hereby amended—

Amendment of section 28 (relief in relation to income from qualifying shipping trade) of Finance Act, 1987.

5 (a) by the insertion after “vessel” in paragraph (i) of the definition of “qualifying ship” of “other than a vessel normally used for the purposes of an activity mentioned in paragraph (d) of the definition of qualifying shipping activities in this subsection”, and

(b) in the definition of “qualifying shipping activities”—

10 (i) by the deletion of “and” in paragraph (c), and

(ii) by the substitution for paragraph (d) of the following paragraphs—

“(d) the subjecting of fish to a manufacturing process on board a qualifying ship, and

15 (e) the letting on charter of a qualifying ship for use for the said purposes where the operation of the ship, and the crew of the ship, remain under the direction and control of the company;”,

20 and the said definitions as so amended are set out in the Table to this section.

(2) For the purposes of Chapter III (Income Tax: Relief for Investment in Corporate Trades) of the Finance Act, 1984, any reference to section 28 (1) of the Finance Act, 1987, shall be construed as if subsection (1) had not been enacted.

25 (3) Subsection (4) of the said section 28 is hereby amended by the substitution in paragraph (c) of “paragraph (c)” for “paragraph (b)” and the said paragraph, as so amended, is set out in the Table to this section.

TABLE

30 “qualifying ship” means a sea-going vessel which—

(a) is owned to the extent of not less than 51 per cent. by a person or persons ordinarily resident in the State,

(b) is registered in the State under Part II of the Mercantile Marine Act, 1955,

35 (c) is of not less than 100 tons gross tonnage, and

(d) is self-propelled,

but notwithstanding anything in paragraphs (a), (b), (c) or (d) of this definition does not include—

40 (i) a fishing vessel other than a vessel normally used for the purposes of an activity mentioned in paragraph (d) of the definition of qualifying shipping activities in this subsection,

(ii) a tug,

(iii) a vessel (including a dredger) used primarily as a floating platform for working machinery or as a diving platform,

45 (iv) a vessel used for the purposes of transporting supplies or personnel to, or providing services in respect of, a mobile or fixed rig, platform, vessel or installation of any kind at sea, and

(v) any other vessel of a type which is not normally used for the purposes of qualifying shipping activities;

50 “qualifying shipping activities” means activities carried on by a company in the course of a trade and which consist of—

- (a) the use of a qualifying ship for the purpose of carrying by sea passengers or cargo for reward,
 - (b) the provision, on board the qualifying ship, of services ancillary to the said use of the qualifying ship,
 - (c) the granting of rights by virtue of which another person provides, or will provide, the said services, on board the said qualifying ship, 5
 - (d) the subjecting of fish to a manufacturing process on board a qualifying ship, and
 - (e) the letting on charter of a qualifying ship for use for the said purposes where the operation of the ship, and the crew of the ship, remain under the direction and control of the company; 10
- (c) the letting on charter of a ship referred to at paragraph (a) (ii), in the course of a trade, shall be deemed notwithstanding paragraph (c) of subsection (1) of section 40 of the Finance Act, 1984, to be a trade of leasing for the purposes of that section and to be a separate trade as provided for in subsection (2) of that section. 15

Relief from corporation tax in respect of certain dividends from a non-resident subsidiary.

41.—(1) (a) In this section—

“approved investment plan” means an investment plan in respect of which the Minister has given a certificate in accordance with *subsection (2)* to the company concerned; 20

“investment plan” means a plan of a company resident in the State which is directed towards the creation or maintenance of employment in the State in trading operations carried on, or to be carried on, in the State and which has, prior to its implementation, been submitted to the Minister by the company for the purpose of enabling it to claim relief under this section; 25

“Minister” means the Minister for Finance; 30

“relevant dividends” means dividends received on or after the 6th day of April, 1988, by a company resident in the State (being the company claiming the relief under this section) from a foreign subsidiary of the company and which are— 35

(i) applied, not earlier than the 6th day of April, 1988, and within a period which commences one year before the day on which the dividends are received in the State and ends two years after that day, for the purposes of an approved investment plan, and 40

(ii) specified in a certificate given by the Minister under *subsection (2)*;

“relief under this section” means, in relation to a company for an accounting period, the amount by which any corporation tax payable by the company is reduced by virtue of *subsection (3)*. 45

(b) (i) The reference in *paragraph (a)* to “a foreign subsidiary” means a 51 per cent. subsidiary of a company where the company is resident in the State and the subsidiary is a resident of the United States of America or of a territory with the government of which arrangements having the force of law by virtue of section 361 of the Income Tax Act, 1967, have been made. 50
55

(ii) For the purposes of *subparagraph (i)*—

“resident of the United States of America” has the meaning assigned to it by the Convention set out in Schedule 8 to the Income Tax Act, 1967;

5 a company shall be regarded as being a resident of a territory other than the United States of America if it is so regarded under the provisions of arrangements made with the government of that territory and having the force of law by
10 virtue of section 361 of the said Act.

(2) Where an investment plan has been duly submitted by a company and the Minister—

15 (a) is satisfied that the plan is directed towards the creation or maintenance of employment in the State in trading operations carried on, or to be carried on, in the State, and

(b) has been informed in writing by the company of the amount of dividends concerned,

20 the Minister may give a certificate to the company certifying that an amount of dividends specified in the certificate shall be an amount of relevant dividends.

25 (3) Subject to *subsection (4)*, where a company claims and proves that it has received in an accounting period any amount of relevant dividends, the amount of its income for the period represented by those dividends shall not be taken into account in computing the income of the company for that accounting period for the purposes of corporation tax.

30 (4) Where, in relation to a certificate given to a company under *subsection (2)*, the Minister considers that, as regards the approved investment plan concerned, all or part of the relevant dividends have not been applied within the period provided for in the definition of “relevant dividends” in *subsection (1) (a)*, he may, by notice in writing to the company, reduce the amount of the relevant dividends specified in the certificate by so much as has not been so applied and, accordingly,
35 where the amount of the relevant dividends specified in a certificate is so reduced—

40 (a) in a case where relief under this section has been granted in respect of the amount of the relevant dividends specified in the certificate before such a reduction of that amount, the inspector shall make such assessments or additional assessments as are necessary to recover the relief given in respect of the amount of the reduction, and

45 (b) in a case where a claim for relief has not yet been made, relief shall not be due under this section in respect of the amount of the reduction.

(5) A claim for relief under this section shall be made in writing to the inspector and shall be submitted together with the company’s return of profits for the period in which the relevant dividends are received in the State.

Exemption from corporation tax of profits of Custom House Docks Development Authority.

42.—Notwithstanding any provision of the Corporation Tax Acts, profits arising to the Custom House Docks Development Authority in any accounting period ending after the 17th day of November, 1986, shall be exempt from corporation tax.

CHAPTER V

5

Capital Allowances

Amendment of section 251 (initial allowances for machinery and plant) of Income Tax Act, 1967.

43.—Section 251 (as amended by section 20 of the Finance Act, 1985) of the Income Tax Act, 1967, is hereby amended—

(a) by the insertion in subsection (4), after paragraph (b), of the following paragraph: 10

“(bb) (i) in relation to capital expenditure incurred on or after the 1st day of April, 1988, and before the 1st day of April, 1989, as if ‘three-fourths’ were substituted for ‘one-fifth’ in subsection (1), and

(ii) in relation to capital expenditure incurred on or after the 1st day of April, 1989, and before the 1st day of April, 1991, as if ‘one-half’ were substituted for ‘one-fifth’ in subsection (1).” 15

and

(b) by the insertion after subsection (6) of the following subsection: 20

“(7) Where an allowance in respect of capital expenditure incurred on or after the 1st day of April, 1988, on the provision of new machinery or plant is made under this section, section 11 of the Finance Act, 1967, and section 26 of the Finance Act, 1971, shall not have effect in relation to an allowance which falls to be made under section 241 of the Income Tax Act, 1967, for wear and tear of the said machinery or plant.” 25

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

44.—Section 254 (as amended by section 20 of the Finance Act, 1985) of the Income Tax Act, 1967, is hereby amended by the insertion after subsection (6) of the following subsection: 30

“(7) Where an allowance in respect of capital expenditure incurred on or after the 1st day of April, 1988, on the construction of a building or structure is made under this section, no increase in any allowance under section 264 of the Income Tax Act, 1967, by virtue of the provisions of section 25 of the Finance Act, 1978, shall be made in relation to that capital expenditure.” 35

Amendment of section 265 (balancing allowances and balancing charges) of Income Tax Act, 1967.

45.—Section 265 (as amended by section 20 of the Finance Act, 1985) of the Income Tax Act, 1967, is hereby amended— 40

(a) by the insertion in subsection (1) after paragraph (c) of the following paragraph:

“(d) where consideration (other than rent or an amount treated as rent under section 83 of the Income Tax Act, 1967) is received by the person entitled to the relevant interest in respect of an interest which is subject to that relevant interest,” 45

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

5 “(2) Where there are no sale, insurance, salvage or compensation moneys, or consideration of the type referred to in paragraph (d) of subsection (1), or where the residue of the expenditure immediately before the event exceeds those moneys or that consideration, a balancing allowance shall be made and the amount thereof shall be the amount of the said residue or, as the case may be, of the excess thereof over the said moneys or the said consideration.”,

and

(c) by the substitution for subsection (3) of the following subsection:

15 “(3) If the sale, insurance, salvage or compensation moneys, or consideration of the type referred to in paragraph (d) of subsection (1), exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the excess, or, where the residue is nil, to the said moneys or the said consideration.”.

46.—Section 11 (inserted by the Corporation Tax Act, 1976) of the Finance Act, 1967, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 11 (wear and tear allowances for certain machinery and plant in undeveloped areas) of Finance Act, 1967.

25 “(2) (a) Subject to the provisions of this section, where for any chargeable period an allowance falls to be made under section 241 of the Income Tax Act, 1967, for wear and tear of any qualifying machinery or plant, the allowance shall, subject to subsection (6) of that section, be increased by such amount as is specified by the person to whom the allowance is to be made; and, in relation to a case in which this subsection has had effect, any reference in the Income Tax Acts to an allowance made under the said section 241 shall be construed as a reference to that allowance as increased under this subsection.

30 (b) As respects any machinery or plant provided for use on or after the 1st day of April, 1988, any allowance made under section 241 of the Income Tax Act, 1967, and increased under paragraph (a) of this subsection, in respect of that machinery or plant, whether claimed in one chargeable period or more than one such period, shall not, in the aggregate, exceed—

35 (i) if the machinery or plant is provided for use before the 1st day of April, 1989, 75 per cent., or

40 (ii) if the machinery or plant is provided for use on or after the 1st day of April, 1989, 50 per cent.,

45 of the capital expenditure incurred on the provision of that machinery or plant.”.

Amendment of section 26 (increase of wear and tear allowances for certain machinery and plant) of Finance Act, 1971.

47.—Section 26 (inserted by the Corporation Tax Act, 1976) of the Finance Act, 1971, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) (a) Subject to the provisions of this section, where for any chargeable period an allowance falls to be made under section 241 of the Income Tax Act, 1967, for wear and tear of any qualifying machinery or plant, the allowance shall, subject to subsection (6) of that section, be increased by such amount as is specified by the person to whom the allowance is to be made; and, in relation to a case in which this subsection has had effect, any reference in the Income Tax Acts to an allowance made under the said section 241 shall be construed as a reference to that allowance as increased under this subsection.

(b) As respects any machinery or plant provided for use on or after the 1st day of April, 1988, any allowance made under section 241 of the Income Tax Act, 1967, and increased under paragraph (a) of this subsection, in respect of that machinery or plant, whether claimed in one chargeable period or more than one such period, shall not, in the aggregate, exceed—

(i) if the machinery or plant is provided for use before the 1st day of April, 1989, 75 per cent., or

(ii) if the machinery or plant is provided for use on or after the 1st day of April, 1989, 50 per cent.,

of the capital expenditure incurred on the provision of that machinery or plant.”.

Amendment of section 25 (increase of writing-down allowances for certain industrial buildings) of Finance Act, 1978.

48.—Section 25 (as amended by section 25 of the Finance Act, 1979) of the Finance Act, 1978, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) (a) Where for any chargeable period an allowance falls to be made under the said section 264 in respect of qualifying expenditure, the allowance shall, subject to subsection (4) of that section, be increased by such amount as is specified by the person to whom the allowance is to be made and, in relation to a case in which this subsection has had effect, any reference in the Income Tax Acts to an allowance made under the said section 264 shall be construed as a reference to that allowance as increased under this section.

(b) As respects any qualifying expenditure incurred on or after the 1st day of April, 1988, any allowance made under section 264 of the Income Tax Act, 1967, and increased under paragraph (a) of this subsection, in respect of that expenditure, whether claimed in one chargeable period or more than one such period, shall not, in the aggregate, exceed —

(i) if the qualifying expenditure is incurred before the 1st day of April, 1989, 75 per cent., or

(ii) if the qualifying expenditure is incurred on or after the 1st day of April, 1989, 50 per cent.,

of the amount of that qualifying expenditure.”.

49.—Section 25 (as amended by section 51 of the Finance Act, 1986) of the Finance Act, 1981, is hereby amended by the substitution in subsection (1) of “1991” for “1988”. Amendment of section 25 (allowance for expenditure on multi-storey car-parks) of Finance Act, 1981.

5 50.—The provisions (inserted by the Corporation Tax Act, 1976, and amended by section 20 of the Finance Act, 1985) of the Income Tax Act, 1967, specified in the Table to this section shall have effect as if the references to the 1st day of April, 1988 (as provided for in section 20 of the Finance Act, 1985) were references to the 1st day of April, 1991. Continuation of certain allowances.

TABLE

Subsection (2A) (a) of section 254 (industrial building allowance),

Paragraph (ii) of the proviso to subsection (1) and paragraph (ii) of the proviso to subsection (3) of section 264 (annual allowances),

15 Paragraph (iii) of the proviso to subsection (1) of section 265 (balancing allowances and balancing charges).

51.—(1) This section applies to—

Application of certain allowances in relation to certain areas and certain expenditure.

20 (a) machinery or plant or an industrial building provided for use for the purposes of trading operations which are relevant trading operations within the meaning of section 39A (inserted by the Finance Act, 1981) or section 39B (inserted by the Finance Act, 1987) of the Finance Act, 1980;

25 (b) a premises which is a qualifying premises, within the meaning of section 42 of the Finance Act, 1986;

(c) machinery or plant or an industrial building—

30 (i) the expenditure on the provision of which was incurred under a binding contract entered into on or before the 27th day of January, 1988, or

(ii) which is provided for the purposes of a project approved by an industrial development agency on or before the 31st day of December, 1988;

and

35 (d) machinery or plant provided before the 1st day of April, 1991, for the purposes of a trade or part of a trade of hotel-keeping carried on in a building or structure or part thereof (including machinery or plant provided by a lessor to a lessee for use in such a trade or part thereof) where a binding contract for the provision of the said building or structure was entered into after the 27th day of January, 40
1988, and before the 1st day of June, 1988.

45 (2) Section 251 (as amended by the *Finance Act, 1988*) of the Income Tax Act, 1967, shall have effect in relation to capital expenditure incurred on the provision of machinery or plant to which this section applies as if paragraph (bb) of subsection (4) and subsection (7) were deleted and as if “1991” were substituted for “1988” in subsection (4) (d).

(3) Section 11 (as amended by the *Finance Act, 1988*) of the Finance Act, 1967, and section 26 (as amended by the *Finance Act, 1988*) of the Finance Act, 1971, shall have effect in relation to an allowance which falls to be made under section 241 of the Income Tax Act, 1967, for wear and tear of any machinery or plant to which this section applies as if— 5

(a) paragraph (b) of subsection (2) of the said section 11, and

(b) paragraph (b) of subsection (2) of the said section 26,

were deleted.

(4) Section 254 (as amended by the *Finance Act, 1988*) of the Income Tax Act, 1967, and section 25 (as amended by the *Finance Act, 1988*) of the Finance Act, 1978, shall have effect in relation to capital expenditure on the construction of an industrial building or a premises to which this section applies as if— 10

(a) subsection (7) of the said section 254, and 15

(b) paragraph (b) of subsection (2) of the said section 25,

were deleted.

(5) Section 265 of the Income Tax Act, 1967, shall have effect as respects the relevant interest in a building or structure to which subsection (1) (d) applies as if section 45 had not been enacted. 20

(6) In this section “industrial development agency” means the Industrial Development Authority, Shannon Free Airport Development Company Limited or Údarás na Gaeltachta.

Farming

52.—(1) Section 22 (as amended by section 15 of the Finance Act, 1983) of the Finance Act, 1974, is hereby amended— 25

(a) as respects expenditure incurred on or after the 1st day of April, 1989, by the insertion in subsection (2) after “fences” of “roadways, holding yards, drains or land reclamation”, and the said subsection (2) (apart from the proviso) as so amended, is set out in the Table to this subsection, 30

and

(b) by the substitution for paragraph (b) in the proviso to subsection (2) of the following paragraph:

“(b) the maximum farm buildings allowance to be made under this section for any chargeable period— 35

(i) in relation to capital expenditure incurred before the 1st day of April, 1989, shall not exceed three-tenths of that capital expenditure, and

(ii) in relation to capital expenditure incurred on or after the 1st day of April, 1989, shall not exceed one-half of that capital expenditure.”. 40

TABLE

(2) Where a person to whom this section applies incurs, for the purpose of a trade of farming land occupied by him, any capital expenditure on the construction

5 of farm buildings (excluding a building or part of a building used as a dwelling), fences, roadways, holding yards, drains or land reclamation, or other works, there shall be made to him during a writing-down period of ten years beginning with the chargeable period related to that expenditure, writing-down allowances (in this section referred to as "farm building allowances") in respect of that expenditure and such allowances shall be made in taxing the trade:

(2) Section 14 of the Finance Act, 1977, is hereby amended by the insertion in subsection (1) after "the 6th day of April, 1977," of "and before the 1st day of April, 1989,".

10 (3) Section 26 of the Finance Act, 1980, shall not have effect for any chargeable period commencing after the 5th day of April, 1989.

CHAPTER VI

Pension Fund Levy

53.—(1) In this section—

Pension fund levy.

15 "assets" means, in relation to a scheme, investments, deposits and any other property (including any debt and any contract of assurance) held for the purposes of the scheme, other than excluded assets;

"administrator" means, in relation to a scheme, the trustees or other persons having the management of the assets of the scheme;

20 "chargeable person" means, in relation to the assets of a scheme—

(a) where the assets are not contracts of assurance, the administrator in relation to the scheme, and

(b) where the assets are contracts of assurance, the insurer in relation to such a contract;

25 "contract of assurance" means any contract of a type described in section 50 (4) of the Corporation Tax Act, 1976;

"excluded assets" means, in relation to a scheme, assets representing—

30 (a) the liabilities of a scheme which are attributable to the provision of relevant benefits (within the meaning of section 13 of the Finance Act, 1972) in respect of employees whose employment is exercised wholly outside the State, or

35 (b) liabilities under any contract other than a contract in respect of business in class VII of the Annex to Council Directive 79/267/EEC of 5 March 1979⁽¹⁾;

"insurer" means a person who is the holder of an authorisation within the meaning of the Regulations or is the holder of an assurance licence that is deemed by those Regulations to be an authorisation;

40 "pension fund", in relation to an insurer, has the same meaning as it has in section 50 (3) of the Corporation Tax Act, 1976;

"the Regulations" means the European Communities (Life Assurance) Regulations, 1984 (S.I. No. 57 of 1984);

"scheme" means a retirement benefits scheme within the meaning of

⁽¹⁾O.J. No. L63, 13.3.1979, p. 1.

section 14 of the Finance Act, 1972, or a retirement annuity contract or a trust scheme to which section 235 or section 235A of the Income Tax Act, 1967, applies.

(2) For the purposes of this section, "the chargeable amount" in relation to any assets shall be an amount determined by the formula 5

$$\frac{(A \times 9)}{100} - P$$

where—

A is the aggregate market value on the 1st day of January, 1988, 10
of the assets, and

P is the total amount of any pensions (including annuities) paid
in the year 1988 in respect of liabilities of the scheme
represented by any asset included in determining the
amount of A: 15

Provided that, in the case of a chargeable person other than an insurer, the chargeable amount shall be the amount determined by the above formula less—

(a) the amount of any interest received in the year 1988
(being relevant interest within the meaning of section 20
31 (1) of the Finance Act, 1986) in respect of any
deposit included in determining the amount of A, and

(b) if it would have the effect of reducing the chargeable
amount to nil, £5,000 or such lesser amount as would
have that effect. 25

(3) For the year 1988, there shall be charged, in accordance with the provisions of this section, on the chargeable person in relation to any assets of a scheme, a levy (hereafter in this section referred to as "the levy") at the rate of 6 per cent. on the chargeable amount in respect of the assets. 30

(4) The chargeable person shall make on or before the 30th day of June, 1989, a return to the Collector-General showing—

(a) the chargeable amount for the year 1988,

(b) the amount of the levy chargeable under this section in respect of that amount, and 35

(c) any amount paid in accordance with *subsection (6)* on account of the amount referred to in *paragraph (b)*.

(5) The amount of the levy required to be included in a return under this section shall be due and payable on the 30th day of June, 1989, and shall be paid by the chargeable person to the Collector-General and the amount of the levy so due shall be payable without the making of an assessment; but the amount of the levy which has become so due and payable may be assessed on the chargeable person if that amount or any part of it is not paid on or before that day. 40

(6) Notwithstanding *subsection (5)*, the chargeable person shall pay 45
to the Collector-General on or before the 30th day of November, 1988, an amount on account of the amount of the levy payable for the year 1988 and the amount so payable on account shall be not less

than 90 per cent. of the amount of the levy due in accordance with *subsection (5)* and the amount so paid on account shall be treated as a payment of an equal amount of the levy due in accordance with *subsection (5)*.

5 (7) Any amount on account of the levy payable by a chargeable person under *subsection (6)* shall be so payable without the making of an assessment and the provisions of this section relating to the collection and recovery of the levy shall apply, with any necessary modifications, to the collection and recovery of an amount on account
10 of the levy.

(8) If it appears to the inspector that there is any amount of the levy payable which ought to have been and has not been included in a return under *subsection (4)*, or if the inspector is dissatisfied with any such return, he may make an assessment on the chargeable person
15 to the best of his judgment to recover any unpaid amount; and any amount of the levy due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on the unpaid levy as having been payable at the time when it would have been payable if a return had been made.

20 (9) (a) Any amount of the levy assessed on a chargeable person under this section shall be due within one month after the issue of the notice of assessment (unless that amount or any amount treated as an amount on account of it is due earlier under *subsection (5)* or *(6)*), subject to any appeal
25 against the assessment, but no such appeal shall affect the date when any amount is due under *subsection (5)* or *(6)*.

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

30 (10) (a) All the provisions of the Income Tax Acts relating to—
(i) assessments to income tax,
(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and
35 (iii) the collection and recovery of income tax,
shall, so far as they are applicable, apply to the assessment, collection and recovery of any amount of the levy.

(b) Any amount of the levy or amount on account of the levy payable in accordance with this section without the making
40 of an assessment shall carry interest at the rate of 1.25 per cent. for each month or part of a month from the date when the amount becomes due and payable until payment.

(c) The provisions of subsections (3) to (5) of section 550 of the Income Tax Act, 1967, shall apply in relation to interest payable under *paragraph (b)* as they apply in
45 relation to interest payable under the said section 550.

(d) In its application to any amount of the levy charged by any assessment made in accordance with this Chapter, section 550 of the Income Tax Act, 1967, shall have effect with
50 the omission of the proviso to subsection (1) and of subsections (2) and (2A).

(e) Notwithstanding anything in the Income Tax Acts, the provisions of section 30 of the Finance Act, 1976, shall not apply in relation to any amount of the levy which is charged by an assessment made in accordance with this Chapter. 5

(11) Every return for the purposes of this section shall be in a form prescribed by the Revenue Commissioners and shall include a declaration to the effect that it is complete.

(12) Schedule 15 to the Income Tax Act, 1967, is hereby amended by the insertion in column 2 of "*Finance Act, 1988, section 53 (4)*". 10

(13) The levy charged by this section shall not be allowed as a deduction or as a credit for the purpose of the computation or charge of any tax or duty under the care and management of the Revenue Commissioners.

(14) If under this section— 15

(a) a chargeable person who is an insurer pays an amount in respect of the levy in relation to a contract of assurance, the amount shall be deemed to be a necessary disbursement from the pension fund of the insurer and the insurer may adjust accordingly any benefits under the contract, and 20

(b) a chargeable person who is an administrator pays an amount in respect of the levy in relation to the assets of a scheme, the amount shall be deemed to be a necessary disbursement from those assets and any benefits payable under the scheme may be adjusted accordingly. 25

PART II

CUSTOMS AND EXCISE

Interpretation (*Part II*). 54.—In this Part "the Order of 1987" means the Imposition of Duties (No. 285) (Excise Duties) Order, 1987 (S.I. No. 19 of 1987). 30

Tobacco products. 55.—(1) (a) In this section "the Act of 1977" means the Finance (Excise Duty on Tobacco Products) Act, 1977.
(b) In this section and in the *Fourth Schedule* "cigarettes", "cigars", "hard pressed tobacco", "other pipe tobacco", "smoking tobacco", "chewing tobacco" and "tobacco products" have the same meanings as they have in the Act of 1977, as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979 (S.I. No. 296 of 1979), and by this section. 35 40

(2) The Act of 1977 is hereby amended—

(a) in section 1 (1)—

(i) by the deletion of the definition of "cavendish or negrohead", and

(ii) by the substitution of "sweetened pipe tobacco" for 45

“cavendish or negrohead” in the definitions of “hard pressed tobacco” and “other pipe tobacco”,

and

5 (b) in the First Schedule, by the substitution of “Sweetened pipe tobacco” for “Cavendish or negrohead”.

(3) The duty of excise on tobacco products imposed by section 2 of the Act of 1977 shall, in lieu of the several rates specified in the Schedule to the Order of 1987, be charged, levied and paid, as on and from the 28th day of January, 1988, at the several rates specified
10 in the *Fourth Schedule*.

56.—(1) In this section “the Order of 1975” means the Imposition of Duties (No. 221) (Excise Duties) Order, 1975 (S.I. No. 307 of 1975). Hydrocarbons.

(2) The duty of excise on mineral hydrocarbon light oil imposed
15 by paragraph 11 (1) of the Order of 1975 shall, in lieu of the rate specified in paragraph 5 (1) of the Order of 1987, be charged, levied and paid, as on and from the 28th day of January, 1988, at the rate of £29.47 per hectolitre.

(3) (a) For the purposes of this subsection—

20 (i) mineral hydrocarbon light oil shall be deemed to be unleaded if it contains not more than 0.013 grammes of lead per litre or, where such oil is delivered for home use before the 1st day of April, 1990, if it contains not more than 0.020 grammes of lead per
25 litre, and

(ii) the lead content of mineral hydrocarbon light oil shall be established in accordance with the provisions of Council Directive No. 85/210/EEC of 20th March, 1985⁽¹⁾.

30 (b) Subject to compliance with such conditions as the Revenue Commissioners may think fit to impose, a rebate of the duty of excise imposed by paragraph 11 (1) of the Order of 1975 on mineral hydrocarbon light oil shall be allowed at the rate of £0.80 per hectolitre in respect of such oil
35 (not being aviation gasoline within the meaning of section 73 of the Finance Act, 1984) which is deemed to be unleaded by virtue of *paragraph (a)* and on which the said duty is paid on or after the 28th day of January, 1988.

(4) The duty of excise on hydrocarbon oil imposed by paragraph
40 12 (1) of the Order of 1975 shall, in lieu of the rate specified in paragraph 5 (2) of the Order of 1987, be charged, levied and paid, as on and from the 28th day of January, 1988, at the rate of £22.31 per hectolitre.

57.—(1) This section applies to any goods liable to a duty of excise
45 which are mixed with some other substance or substances for purposes connected with a rebate of excise duty on the said goods or the exemption of the said goods from excise duty. Removal of substances mixed with goods liable to excise duty.

(2) Any person who, without the consent in writing of the Revenue
50 Commissioners, removes or attempts to remove or is knowingly concerned in removing or attempting to remove a substance or substances mentioned in *subsection (1)* from goods to which this section

⁽¹⁾O.J. No. L96, 3.4.1985, p. 25.

applies, or knowingly deals in any manner with such goods from which a substance or substances mentioned in *subsection (1)* has or have, without the consent aforesaid, been removed, shall be guilty of an offence.

(3) A person guilty of an offence under *subsection (2)* shall be liable— 5

(a) on summary conviction, to an excise penalty not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to an excise penalty not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both. 10

(4) Section 13 of the Criminal Procedure Act, 1967, as amended by section 17 of the Criminal Justice Act, 1984, shall apply in relation to an offence under *subsection (2)* as if the references in *subsection (3) (a)* of the said section 13 to a fine were references to an excise penalty. 15

(5) Where an offence under *subsection (2)* is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of the offence and may be proceeded against and punished accordingly. 20 25

Confirmation of an Order.

58.—The Imposition of Duties (No. 287) (Excise Duty on Table Waters) Order, 1987 (S.I. No. 338 of 1987), is hereby confirmed.

PART III

VALUE-ADDED TAX

Interpretation (*Part III*).

59.—In this Part “the Principal Act” means the Value-Added Tax Act, 1972. 30

Amendment of section 1 (interpretation) of Principal Act.

60.—Section 1 (2) of the Principal Act is hereby amended by the insertion after paragraph (b) of the following:

“(bb) money due to the person which, in accordance with the provisions of *section 73* of the *Finance Act, 1988*, is paid to the Revenue Commissioners by another person and has thereby ceased to be due to the person by that other person, and”. 35

Amendment of section 11 (rates of tax) of Principal Act.

61.—Section 11 (1) (inserted by the Finance Act, 1985) of the Principal Act is hereby amended— 40

(a) by the insertion in paragraph (a) after “in paragraphs (b)” of “, (bb)”,

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

“(bb) 5 per cent. of the amount on which tax is chargeable in relation to the supply of electricity,” and

(c) by the substitution in paragraph (d) of “1.4 per cent.” for “1.7 per cent.” (inserted by the Finance Act, 1987).

5 62.—Section 12A (inserted by the Value-Added Tax (Amendment) Act, 1978) of the Principal Act is hereby amended by the substitution in subsection (1) of “1.4 per cent.” for “1.7 per cent.” (inserted by the Finance Act, 1987).

Amendment of section 12A (special provisions for tax invoiced by flat-rate farmers) of Principal Act.

10 63.—The Second Schedule (inserted by the Finance Act, 1976) to the Principal Act is hereby amended by the deletion of paragraph (xx) (a) (inserted by the Finance Act, 1983).

Amendment of Second Schedule to Principal Act.

PART IV

STAMP DUTIES

64.—(1) In this section—

Levy on banks.

15 “assessable amount” means the amount arrived at by dividing the specified amount by 12 and deducting £10,000,000 from the quotient;

“bank” means a person who, on the 1st day of September, 1987, was the holder of a licence granted under section 9 of the Central Bank Act, 1971;

20 “relevant sum”, in relation to a return, means a sum shown in the return other than a sum shown in respect of foreign currency;

“returns”, in relation to a bank, means the returns, entitled “MONTHLY RETURN OF ALL LICENSED BANKS: RESIDENT BRANCHES”, furnished to the Central Bank of Ireland by the bank in respect of the assets and liabilities of the bank as on the 21st day of January, 1987, the 18th day of February, 1987, the 31st day of March, 1987, the 15th day of April, 1987, the 20th day of May, 1987, the 30th day of June, 1987, the 15th day of July, 1987, the 19th day of August, 1987, the 30th day of September, 1987, the 21st day of October, 1987, the 18th day of November, 1987, and the 31st day of December, 1987;

35 “specified amount”, in relation to a bank, means the amount obtained by deducting the aggregate amount of the relevant sums shown in respect of Item 302.2 in supplement 1 of the returns of the bank from the aggregate amount of the relevant sums shown in the returns in respect of Government deposits and Non-Government deposits and shown as liabilities of the bank in such returns.

40 (2) A bank shall, not later than the 14th day of September, 1988, deliver to the Revenue Commissioners a statement in writing showing the assessable amount for that bank, the specified amount for that bank and the sums referred to in the definition of “specified amount” in subsection (1) by reference to which that specified amount was calculated.

45 (3) There shall be charged on every statement delivered pursuant to subsection (2) a stamp duty of an amount equal to the sum of the following:

(a) 0.325 per cent. of that part of the assessable amount shown therein that does not exceed £102,000,000 and

(b) 0.45 per cent. of that part of the assessable amount shown therein that exceeds £102,000,000:

Provided that, in a case where the assessable amount shown in the statement does not exceed £102,000,000, stamp duty of an amount equal to 0.325 per cent. of the assessable amount shown therein shall be charged. 5

(4) The duty charged by *subsection (3)* upon a statement delivered by a bank pursuant to *subsection (2)* shall be paid by the bank upon delivery of the statement.

(5) There shall be furnished to the Revenue Commissioners by a bank such particulars as the Revenue Commissioners may deem necessary in relation to any statement required by this section to be delivered by the bank. 10

(6) In the case of failure by a bank to deliver any statement required by *subsection (2)* within the time provided for in that subsection or of failure to pay the duty chargeable on any such statement on the delivery thereof, the bank shall, from the date of the passing of this Act until the day on which the duty is paid, be liable to pay, by way of penalty, in addition to the duty, interest thereon at the rate of 15 per cent. per annum and also from the 14th day of September, 1988, by way of further penalty, a sum equal to 1 per cent. of the duty for each day the duty remains unpaid and each penalty shall be recoverable in the same manner as if the penalty were part of the duty. 15 20

(7) The delivery of any statement required by *subsection (2)* may be enforced by the Revenue Commissioners under section 47 of the Succession Duty Act, 1853, in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section. 25

(8) The stamp duty charged by this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty under the care and management of the Revenue Commissioners payable by the bank. 30

Amendment of
First Schedule to
Stamp Act, 1891.

65.—(1) The First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Stamp Act, 1891, is hereby amended by the insertion after paragraph (8) under the heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities” of the following paragraph— 35

“(8A) Where the amount or value of the consideration for the sale exceeds fifty thousand pounds but does not exceed sixty thousand pounds and the instrument contains a statement certifying that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds sixty thousand pounds: 40

For every £50, or fractional part of £50, of the consideration £2.50” 45

(2) The Imposition of Duties (No. 288) (Stamp Duty on Certain Instruments) Order, 1988 (S.I. No. 8 of 1988), is hereby revoked.

PART V

CAPITAL ACQUISITIONS TAX

5 66.—(1) Section 63 (1) of the Finance Act, 1985, is hereby amended by the substitution for “the same, up to the net amount of the same” of—

“the same: Amendment of section 63 (allowance for capital gains tax on the same event) of Finance Act, 1985.

Provided that, in relation to each asset, or to a part of each asset, so disposed of, the amount deducted shall be the lesser of—

10 (a) an amount equal to the amount of the capital gains tax attributable to such asset, or to the part of such asset, or

(b) an amount equal to the amount of the gift tax or inheritance tax attributable to the property which is that asset, or that part of that asset”,

15 and the said subsection 63 (1), as so amended, is set out in the Table to this section.

(2) This section shall apply where gift tax or inheritance tax is charged in respect of property on an event happening on or after the 6th day of April, 1988.

TABLE

20 63.—(1) Where gift tax or inheritance tax is charged in respect of property on an event happening on or after the 30th day of January, 1985, and the same event constitutes for capital gains tax purposes a disposal of an asset (being the same property or any part of the same property), the capital gains tax, if any, chargeable on the disposal shall not be deducted in ascertaining the taxable value for the purposes of the gift tax or inheritance tax but, in so far as it has been paid, shall be deducted from the net gift tax or inheritance tax as a credit against the same:

25

Provided that, in relation to each asset, or to a part of each asset, so disposed of, the amount deducted shall be the lesser of—

30 (a) an amount equal to the amount of the capital gains tax attributable to such asset, or to the part of such asset, or

(b) an amount equal to the amount of the gift tax or inheritance tax attributable to the property which is that asset, or that part of that asset.

PART VI

MISCELLANEOUS

35 67.—(1) In this section—

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

“the 1987 amending section” means section 51 of the Finance Act, 1987;

40 “the thirty-eighth additional annuity” means the sum charged on the Central Fund under *subsection (4)*;

“the Minister”, “the Account” and “capital services” have the same meanings respectively as they have in the principal section.

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of December, 1988, subsection (4) of the 1987 amending section shall have effect with the substitution of “£44,473,927” for “£45,510,049”.

45

Capital Services
Redemption
Account.

(3) Subsection (6) of the 1987 amending section shall have effect with the substitution of "£33,669,150" for "£34,980,050".

(4) A sum of £44,807,298 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, 1988. 5

(5) The thirty-eighth additional annuity shall be paid into the account in such manner and at such times in the relevant financial year as the Minister may determine. 10

(6) Any amount of the thirty-eighth additional annuity, not exceeding £34,439,900 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the thirty-eighth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section. 15

(8) The Minister shall pay into the Account and shall apply any sum (including interest received by him on temporary deposits held abroad under section 4 (2) (b) (inserted by the Appropriation Act, 1969) of the Appropriation Act, 1965, and interest received on the Exchequer's accounts with the Central Bank of Ireland or with the holder of a licence under the Central Bank Act, 1971) received by him arising out of transactions entered into under section 54 (7) (inserted by the Finance Act, 1983) of the Finance Act, 1970, towards defraying the interest and expenses arising on the public debt. 20 25

Amendment of section 54 of Finance Act, 1970.

68.—Section 54 of the Finance Act, 1970, is hereby amended by—

(a) the insertion in subsection (5) (inserted by section 49 of the Finance Act, 1978) after "Post Office Savings Bank Fund" of "or from any other Departmental Fund under his control", and the said subsection, as so amended, is set out in the Table to this section, and 30

(b) the insertion after subsection (7) (inserted by the Finance Act, 1983) of the following subsection:

"(8) The Minister may, for the purposes of the better management of the indebtedness incurred by him under this section, do such things and take such steps (including the employment of specialists and specialised services) as he considers necessary or expedient for those purposes, and the expenses and other costs incurred by the Minister for Finance under this subsection or otherwise in relation to such management shall be charged on the Central Fund or the growing produce thereof." 35 40

TABLE

(5) Securities created and issued by the Minister for Finance either under this section or under any other provision of an Act of the Oireachtas may, whenever and so often as he thinks fit, be purchased by him from the Post Office Savings Bank Fund or from any other Departmental Fund under his control and cancelled. 45

Provisions relating to sums advanced to Local Loans Fund.

69.—(1) Where any sum is, or, before the passing of this Act, has

5 been, advanced, pursuant to section 5 (2) of the Local Loans Fund Act, 1935, out of the Central Fund to the Local Loans Fund, the Minister for Finance may, if it seems to him desirable so to do, waive the repayment of the whole, or such part as the Minister may specify, of—

- (a) such sum, or
- (b) any balance thereof not repaid,

together with the whole, or such part as may be so specified, of any unpaid interest on such sum or balance.

10 (2) The Minister for Finance shall, in respect of each sum or balance the repayment of which or of part of which, or of the interest or part of the interest on which, has been waived pursuant to *subsection (1)*, lay before each House of the Oireachtas, a statement specifying the following matters:

- 15 (a) the total amount of the sum advanced out of the Central Fund;
- (b) the total amount of principal, the repayment of which has been waived pursuant to *subsection (1)*; and
- 20 (c) the total amount of interest, the repayment of which has been waived pursuant to *subsection (1)*.

70.—(1) Part XXXII of the Income Tax Act, 1967, is hereby amended—

Securities of Bord
Telecom Éireann
and Irish Telecom-
munications
Investments
p.l.c.

(a) by the insertion after section 467 of the following section:

25 “467A.—(1) Any debentures, debenture stock, bonds, notes, certificates of charge or other forms of security issued after the passing of the *Finance Act, 1988*, by a company to which this section applies shall be deemed to be securities issued under the authority of the Minister for Finance within the meaning of section 30 466 and that section shall apply accordingly.

(2) Notwithstanding anything contained in this Act, in computing for the purposes of assessment under Schedule D the amount of the profits or gains of a company to which this section applies, for any period 35 for which accounts are made up, there shall be allowed as a deduction the amount of the interest on debentures, debenture stock, bonds, notes, certificates of charge or other forms of security which, by direction of the Minister for Finance given under section 466 as applied by 40 this section, is paid by the company without deduction of tax for such period.

(3) The companies to which this section applies are Bord Telecom Éireann and Irish Telecommunications Investments p.l.c.”, and

45 (b) by the insertion in section 474 (1) after “section 467,” of “467A,” and the said section 474 (1), as so amended, is set out in the Table to this subsection.

TABLE

50 (1) This section applies to any stock or other security on which interest is payable without deduction of income tax by virtue of a direction given by the Minister for Finance in pursuance of section 467, 467A, 471, 472 or 473 or section 59 of the *Finance Act, 1970* or section 92 of the *Finance Act, 1973*.

(2) (a) Section 19 (d) of the *Capital Gains Tax Act, 1975*, is hereby

amended, as on and from the passing of this Act, by the insertion after "the Electricity Supply Board," of "Bord Telecom Éireann, Irish Telecommunications Investments p.l.c.," and the said section 19 (d), as so amended, is set out in the Table to this subsection. 5

(b) As on and from the passing of this Act, section 54 of the Finance Act, 1983, and paragraph (b) of section 66 of the Finance Act, 1984, shall not apply or have effect.

TABLE

(d) debentures, debenture stock, certificates of charge or other forms of security issued by the Electricity Supply Board, Bord Telecom Éireann, Irish Telecommunications Investments p.l.c., Córas Iompair Éireann, The Agricultural Credit Corporation, Limited, Bord na Móna, Aerlínte Éireann, Teoranta, Aer Lingus, Teoranta or Aer Rianta, Teoranta. 10
15

Poundage and certain other fees.

71.—(1) (a) In this section—

"the Acts" means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act, 20
- (d) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act, and
- (e) Part VI of the Finance Act, 1983, and the enactments amending or extending that Part, 25

and any instruments made thereunder;

"certificate" means a certificate issued under section 485 of the Income Tax Act, 1967; 30

"county registrar" means a person appointed to be a county registrar under section 35 of the Court Officers Act, 1926;

"defaulter" means a person specified or certified in an execution order or certificate upon whom a relevant amount specified or certified in the order or certificate is leviable; 35

"execution order" has the same meaning as in the Enforcement of Court Orders Act, 1926;

"fees" means the fees known as poundage fees payable under section 14 (1) of the Enforcement of Court Orders Act, 1926, and orders made thereunder for services in or about the execution of an execution order directing or authorising the execution of an order of a court by the seizure and sale of a person's property or, as may be appropriate, the fees, corresponding to the fees aforesaid, payable under section 485 of the Income Tax Act, 1967, for the execution of a certificate; 40
45

5

“interest on unpaid tax” means interest that has accrued under any provision of the Acts providing for the charging of interest in respect of unpaid tax including interest on an undercharge of tax which is attributable to fraud or neglect;

“relevant amount” means an amount of tax or interest on unpaid tax;

10

“tax” means any tax, duty, levy or charge which, in accordance with any provision of the Acts, is placed under the care and management of the Revenue Commissioners.

(b) References, as respects an execution order, to a relevant amount include references to any amount of costs specified in the order.

15

(2) (a) Where—

20

(i) an execution order or certificate specifying or certifying a defaulter and relating to a relevant amount is lodged, whether before or after the passing of this Act, with the appropriate sheriff or county registrar for execution,

25

(ii) the sheriff or, as the case may be, the county registrar gives notice to the defaulter of the lodgment or of his intention to execute the execution order or certificate by seizure of the property of the defaulter to which it relates, or demands payment by the defaulter of the relevant amount, and

30

(iii) the whole or part of the relevant amount is paid to the sheriff or, as the case may be, the county registrar or to the Collector-General, after the giving of the notice or the making of the demand, aforesaid,

then, for the purpose of the liability of the defaulter for the payment of fees and of the exercise of any rights or powers in relation to the collection of fees for the time being vested by law in sheriffs and county registrars—

35

(I) the sheriff or, as the case may be, the county registrar shall be deemed to have entered, in the execution of the execution order or certificate, into possession of the property aforesaid, and

40

(II) the payment mentioned in *subparagraph (iii)* shall be deemed to have been levied, in the execution of the execution order or certificate, by the sheriff or, as the case may be, the county registrar,

45

and fees shall be payable by the defaulter to such sheriff or, as the case may be, county registrar accordingly in respect of the payment mentioned in *subparagraph (iii)*.

50

(b) *Paragraph (a)* shall, with any necessary modifications, apply also in a case in which such a notice or demand as is mentioned in *subparagraph (ii)* of that paragraph was given or made before the passing of this Act if the fees concerned were paid to the sheriff or county registrar concerned before such passing.

- 72.—(1) (a) In this section—
- “the Acts” means—
- (i) the Tax Acts,
 - (ii) Part V of the Finance Act, 1920, and the enactments amending or extending that Part, 5
 - (iii) the Capital Gains Tax Acts, and
 - (iv) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,
- and any instruments made thereunder;
- “arrears of tax” has the meaning assigned to it by *subsection (2) (a)*; 10
- “the due date” means, in relation to an amount of tax, the date on which a person becomes liable to interest under any of the specified provisions in respect of the late payment of that tax;
- “estimate” means an estimate of tax made in accordance with the provisions of— 15
- (i) section 7 or 8 of the Finance Act, 1968,
 - (ii) section 17 of the Finance Act, 1970, and the regulations made thereunder, or
 - (iii) section 22 or 23 of the Value-Added Tax Act, 1972,
- as the case may be; 20
- “judgment” includes any order or decree;
- “relevant interest” means interest (other than interest to which *subsection (4)* applies) payable in accordance with the specified provisions in respect of arrears of tax;
- “the specified provisions” means any provision of the Acts pursuant to which a person may be liable— 25
- (i) to interest in respect of unpaid tax including interest on an undercharge of tax which is attributable to fraud or neglect, or
 - (ii) to a fine or other penalty in respect of an offence; 30
- “tax” means income tax, sur-tax, corporation profits tax, corporation tax, capital gains tax or value-added tax, as the case may be.
- (b) The reference in *subsection (2) (b)* to an amount of tax due and payable shall, in a case where tax is assessed or estimated in an assessment or estimate against which an appeal has been made, be construed as a reference to the amount of tax which becomes due and payable on the determination of the appeal (within the meaning of section 550 (2A) (c) of the Income Tax Act, 1967) or, pending such determination, the tax as assessed or estimated. 40
- (2) This section applies to a person—

5 (a) who had not paid or remitted before the due date tax (in this section referred to as "arrears of tax") which was due and payable by him on or before the 31st day of December, 1987, in accordance with any provision of the Acts, including tax which would have been so due and payable if any return, statement or declaration (being a return, statement or declaration, as the case may be, which should have, but had not, been made by him in accordance with the Acts) had been so made and if that tax had been contained in an assessment or estimate made before that date,
10 and

(b) who, at any time during the period from the 27th day of January, 1988, to the 30th day of September, 1988—

15 (i) had paid or remitted all amounts of tax due and payable by him before or during that period in accordance with the provisions of the Acts including such arrears of tax as are referred to in *paragraph (a)*, and

20 (ii) had paid or remitted all amounts he was liable to pay or remit before or during that period in accordance with the provisions of—

(I) the Social Welfare Acts, 1981 to 1987, and the regulations made thereunder,

(II) the Health Contributions Act, 1979, and the regulations made thereunder,

25 (III) the Youth Employment Agency Act, 1981, and the regulations made thereunder, and

(IV) section 16 of the Finance Act, 1983.

(3) Notwithstanding any other provision of the Acts, in the case of a person to whom this section applies—

30 (a) relevant interest which is owed by him and is unpaid on the expiration of the period referred to in *subsection (2) (b)* shall be waived, and

35 (b) proceedings shall not be initiated or continued for the recovery of any fine or penalty which the person may have incurred, directly or indirectly, under any of the specified provisions in relation to arrears of tax, nor shall the Revenue Commissioners seek or demand from the person payment of any sum in lieu of such fine or penalty.

40 (4) This subsection applies to interest chargeable for any month, or part of a month, commencing on—

(a) the 1st day of March, 1988, in respect of tax which a person was liable to remit pursuant to—

45 (i) Chapter IV of Part V of the Income Tax Act, 1967, and the regulations made thereunder or section 7 of the Finance Act, 1968, and the said regulations, or which a person was liable to pay in accordance with the provisions of section 8 of the Finance Act, 1968,

(ii) section 17 of the Finance Act, 1970, and the regulations made thereunder, or

(iii) the Value-Added Tax Act, 1972, and the regulations made thereunder,

or

(b) the 1st day of May, 1988, in respect of tax other than tax to which *paragraph (a)* refers. 5

(5) Notwithstanding the provisions of *subsection (3)* or any other provision of the Acts, relevant interest which is paid by a person on or after the 27th day of January, 1988—

(a) if he is a person to whom this section applies, shall be refunded to him, or 10

(b) if he is not such a person, may be treated as a payment in respect of any amount (which, if he were such a person, would have been paid or remitted by him in accordance with *subsection (2) (b)*), if, but only if, he would by reason of such treatment, be a person to whom this section applies; and any relevant interest paid in excess of the amount aforesaid shall be refunded to him. 15

(6) This section shall not apply to any interest, fine or other penalty that—

(a) in the case of a fine or other penalty, is imposed by a court under any of the Acts, 20

(b) in the case of interest, is ordered by a court in any proceedings for the recovery of tax or interest to be paid by a person, or

(c) in any case, is included in a specified sum such as is referred to in *subsection (2) (c)* of section 23 of the Finance Act, 1983, where, pursuant to an investigation by an inspector, the specified sum was accepted by the Revenue Commissioners on or before the 27th day of January, 1988. 25

(7) Section 23 (4) of the Finance Act, 1983, is hereby amended by the insertion after *paragraph (a)* of the following paragraph: 30

“(aa) the provisions of *section 72* of the *Finance Act, 1988*, apply, or”.

Deduction from payments due to defaulters of amounts due in relation to tax.

73.—(1) (a) This section shall apply and have effect as on and from the 1st day of October, 1988. 35

(b) In this section, except where the context otherwise requires—

“the Acts” means—

(i) the Tax Acts,

(ii) the Capital Gains Tax Acts, and 40

(iii) the Value-Added Tax Act, 1972, and the enactments amending or extending that Act,

and any instruments made thereunder;

“additional debt” means, in relation to a relevant

5 person who has received a notice of attachment in respect of a taxpayer, any amount which, at any time after the time of the receipt by the relevant person of the notice of attachment but before the end of the relevant period in relation to the notice, would be a debt due by him to the taxpayer if a notice of attachment were received by him at that time;

10 “debt” means, in relation to a notice of attachment given to a relevant person in respect of a taxpayer and in relation to the said relevant person and taxpayer, the amount or aggregate amount of any money which, at the time the notice of attachment is received by the relevant person, is due by the relevant person (whether on his own account, or as an agent or trustee) to the taxpayer, irrespective of whether the taxpayer has applied for the payment (to himself or any other person) or for the withdrawal of all or part of the money:

Provided that—

20 (i) where a relevant person is a financial institution, any amount or aggregate amount of money, including interest thereon, which at that time is a deposit held by the relevant person to the credit of the taxpayer for his sole benefit, shall be regarded as a debt due by the relevant person to the taxpayer at that time,

25 (ii) any amount of money due by the relevant person to the taxpayer as emoluments under a contract of service shall not be so regarded, and

30 (iii) where there is a dispute as to an amount of money which is due by the relevant person to the taxpayer, the amount in dispute shall be disregarded for the purposes of determining the amount of the debt;

35 “deposit” means a sum of money paid to a financial institution on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made;

40 “emoluments” means anything assessable to income tax under Schedule E;

45 “financial institution” means a holder of a licence issued under section 9 of the Central Bank Act, 1971, or a person referred to in section 7 (4) of that Act and includes a branch of a financial institution that records deposits in its books as liabilities of the branch;

50 “further return” means a return made by a relevant person under *subsection (4)*;

“interest on unpaid tax” means, in relation to a specified amount specified in a notice of attachment,

interest, that has accrued to the date on which the notice of attachment is given, under any provision of the Acts providing for the charging of interest in respect of unpaid tax including interest on an under-charge of tax which is attributable to fraud or neglect; 5

“notice of attachment” means a notice under *subsection (2)*;

“notice of revocation” means a notice under *subsection (10)*;

“penalty” means a monetary penalty imposed on a taxpayer under a provision of the Acts; 10

“relevant period”, in relation to a notice of attachment, means, as respects the relevant person to whom the notice of attachment is given, the period commencing at the time at which the notice is received by the relevant person and ending on— 15

(i) the date on which he completes the payment to the Revenue Commissioners out of the debt, or the aggregate of the debt and any additional debt, due by him to the taxpayer named in the notice, of an amount equal to the specified amount in relation to the taxpayer, 20

(ii) the date on which he receives a notice of revocation of the notice of attachment, or 25

(iii) where he or the taxpayer named in the notice is—

(I) declared bankrupt, the date he or the taxpayer is so declared, or

(II) a company which commences to be wound up, the “relevant date” within the meaning of section 285 of the Companies Act, 1963, in relation to the winding up, 30

whichever is the earliest; 35

“relevant person” means, in relation to a taxpayer, a person in respect of whom the Revenue Commissioners have reason to believe that he may have, at the time a notice of attachment is received by him in respect of a taxpayer, a debt due to the taxpayer; 40

“return” means a return made by a relevant person under *subsection (2) (a) (iii)*;

“specified amount” has the meaning assigned to it by *subsection (2) (a) (ii)*;

“tax” means any tax, duty, levy or charge which, in accordance with any provision of the Acts, is placed under the care and management of the Revenue Commissioners; 45

“taxpayer” means a person who is liable to pay, remit

or account for tax to the Revenue Commissioners under the Acts.

5 (2) (a) Subject to *subsection (3)*, where a taxpayer has made default, whether before or after the passing of this Act, in paying, remitting, or accounting for, any tax, interest on unpaid tax, or penalty to the Revenue Commissioners, the Revenue Commissioners may, if the taxpayer has not made good the default, give to a relevant person in relation to the taxpayer a notice in writing (in this section referred to as "the notice of attachment") in which is entered—

10 (i) the taxpayer's name and address,
15 (ii) the amount or aggregate amount (in this section referred to as "the specified amount") of the taxes, interest on unpaid taxes and penalties in respect of which the taxpayer is in default at the time of the giving of the notice of attachment, and

20 (iii) a direction to the relevant person—
(I) to deliver to the Revenue Commissioners, within the period of 10 days from the time at which the notice of attachment is received by him, a return in writing specifying whether or not any debt is due by him to the taxpayer at the time the notice is received by him, and if any debt is so due, specifying the amount of the debt:

25 Provided that where the amount of the debt due by the relevant person to the taxpayer is equal to or greater than the specified amount in relation to the taxpayer, the amount of the debt specified in the return shall be an amount equal to the specified amount,

30 and
(II) if the amount of any debt is so specified to pay to the Revenue Commissioners within the period aforesaid a sum equal to the amount of the debt so specified.

35 (b) A relevant person to whom a notice of attachment has been given shall comply with the direction in the notice.

(3) An amount in respect of tax, interest on unpaid tax or a penalty, as respects which a taxpayer is in default as specified in *subsection*
40 (2), shall not be entered in a notice of attachment unless—

(a) a period of one month has expired from the date on which such default commenced, and

45 (b) the Revenue Commissioners have given the taxpayer a notice in writing (whether or not the document containing the notice also contains other information being communicated by the Revenue Commissioners to the taxpayer), not later than 10 days before the date of the receipt by the relevant person concerned of the notice of attachment, stating that, if the amount is not paid, it may be specified in a notice of attachment and recovered under this section from a relevant person in relation to the taxpayer.

(4) If, when a relevant person receives a notice of attachment, the amount of the debt due by him to the taxpayer named in the notice is less than the specified amount in relation to the taxpayer or no debt is so due and, at any time thereafter before the end of the relevant period in relation to the notice, an additional debt becomes due by the relevant person to the taxpayer, the relevant person shall, within 10 days of that time— 5

(a) if the aggregate of the amount of any debt so due and the additional debt so due is equal to or less than the specified amount in relation to the taxpayer— 10

(i) deliver a further return to the Revenue Commissioners specifying the additional debt, and

(ii) pay to the Revenue Commissioners the amount of the additional debt,

and so on for each subsequent occasion during the relevant period in relation to the notice of attachment on which an additional debt becomes due by the relevant person to the taxpayer until the aggregate amount of the debt and the additional debt or debts so due equals the specified amount in relation to the taxpayer or the provisions of *paragraph* 20
(b) apply in relation to an additional debt, and

(b) if the aggregate amount of any debt and the additional debt or debts so due to the taxpayer is greater than the specified amount in relation to the taxpayer—

(i) deliver a further return to the Revenue Commissioners specifying such portion of the latest additional debt as when added to the aggregate of the debt and any earlier additional debts is equal to the specified amount in relation to the taxpayer, and 25

(ii) pay to the Revenue Commissioners the said portion of the additional debt. 30

(5) Where a relevant person delivers, either fraudulently or negligently, an incorrect return or further return that purports to be a return or further return made in accordance with this section, he shall be deemed to be guilty of an offence under section 94 of the Finance Act, 1983. 35

(6) (a) Where a notice of attachment has been given to a relevant person in respect of a taxpayer, the relevant person shall not, during the relevant period in relation to the notice, make any disbursements out of the debt, or any additional debt, due by him to the taxpayer save to the extent that any such disbursement— 40

(i) will not reduce the debt or the aggregate of the debt and any additional debts so due to an amount that is less than the specified amount in relation to the taxpayer, or 45

(ii) is made pursuant to an order of a court.

(b) For the purposes of this section, a disbursement made by a relevant person contrary to *paragraph* (a) shall be deemed not to reduce the amount of the debt or any additional debts due by him to the taxpayer. 50

5 (7) (a) Sections 500 and 503 of the Income Tax Act, 1967, shall
apply to a failure by a relevant person to deliver a return
required by a notice of attachment within the time speci-
fied in the notice or to deliver a further return within the
time specified in *subsection (4)* as they apply to a failure
to deliver a return referred to in the said section 500 and
Schedule 15 to the said Act is hereby amended by the
insertion in Column 1 of "*Finance Act, 1988, paragraph*
10 (a) (iii) (I) of *subsection (2)* and *paragraphs (a) (i) and (b)*
(i) of *subsection (4) of section 73*".

15 (b) A certificate signed by an officer of the Revenue Com-
missioners which certifies that he has examined the rel-
evant records and that it appears from them that, during
a specified period, a specified return was not received
from a relevant person shall be evidence until the contrary
is proved that the relevant person did not deliver the
return during that period and a certificate certifying as
provided by this paragraph and purporting to be signed
20 by an officer of the Revenue Commissioners may be
tendered in evidence without proof and shall be deemed
until the contrary is proved to have been so signed.

(8) Where a relevant person to whom a notice of attachment in
respect of a taxpayer has been given—

25 (a) delivers the return required to be delivered by the said notice
but fails to pay to the Revenue Commissioners, within the
time specified in the notice, the amount specified in the
return or any part of that amount, or

30 (b) delivers a further return under *subsection (4)* but fails to pay
to the Revenue Commissioners, within the time specified
in the said *subsection (4)*, the amount specified in the
further return or any part of that amount,

35 the amount specified in the return or further return, or the part of
that amount, as the case may be, which he has failed to pay to the
Revenue Commissioners may, if the notice of attachment has not
been revoked by a notice of revocation, be sued for and recovered
by action, or other appropriate proceedings, at the suit of an officer
of the Revenue Commissioners in any court of competent jurisdiction.

40 (9) Nothing in this section shall be construed as rendering any
failure by a relevant person to make a return or further return required
by this section, or pay to the Revenue Commissioners the amount or
amounts required by this section to be paid by him, liable to be treated
as a failure to which section 94 of the Finance Act, 1983, applies.

45 (10) (a) A notice of attachment given to a relevant person in
respect of a taxpayer may be revoked by the Revenue
Commissioners, at any time, by notice in writing given to
the relevant person and shall be revoked forthwith if the
taxpayer has paid the specified amount to the Revenue
Commissioners.

50 (b) Where, in pursuance of this section, a relevant person
pays any amount to the Revenue Commissioners out of a
debt or an additional debt due by him to the taxpayer and,
at the time of the receipt by the Revenue Commissioners
of the said amount, the taxpayer has paid the specified
55 amount to the Revenue Commissioners, the first-men-
tioned amount shall be refunded by the Revenue Com-
missioners forthwith to the taxpayer.

(11) If a notice of attachment or a notice of revocation is given to a relevant person in relation to a taxpayer a copy thereof shall be given by the Revenue Commissioners to the taxpayer forthwith.

(12) (a) If, in pursuance of this section, any amount is paid to the Revenue Commissioners by a relevant person, the relevant person shall forthwith give the taxpayer concerned a notice in writing specifying the payment, its amount and the reason for which it was made. 5

(b) On the receipt by the Revenue Commissioners of an amount paid in pursuance of this section, the Revenue Commissioners shall forthwith notify the taxpayer and the relevant person in writing of such receipt. 10

(13) If, in pursuance of this section, a relevant person pays to the Revenue Commissioners the whole or part of the amount of a debt, or an additional debt, due by him to a taxpayer, or any portion of such an amount, the taxpayer shall allow such payment and the relevant person shall be acquitted and discharged of the amount of the payment as if it had been paid to the taxpayer. 15

(14) If, in pursuance of this section, a relevant person is prohibited from making any disbursement out of a debt, or an additional debt, due to a taxpayer, no action shall lie against the relevant person in any court by reason of a failure to make any such disbursement. 20

(15) Any obligation on the Revenue Commissioners to maintain secrecy or any other restriction upon the disclosure of information by the Revenue Commissioners shall not apply in relation to information contained in a notice of attachment. 25

(16) A notice of attachment in respect of a taxpayer shall not be given to a relevant person at a time when the relevant person or the taxpayer is an undischarged bankrupt or a company being wound up.

(17) Where the Revenue Commissioners have given a notice of attachment to a relevant person in respect of a taxpayer, they shall not, during the relevant period in relation to the notice, give a notice of attachment in respect of the taxpayer to any other relevant person. 30

(18) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Revenue Commissioners. 35

Construction of certain Acts in accordance with Status of Children Act, 1987.

74.—(1) In this section “the Acts” means—

- (i) the Tax Acts,
 - (ii) the Capital Gains Tax Acts, 40
 - (iii) the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act, and
 - (iv) the statutes relating to stamp duty,
- and any instruments made thereunder.

(2) Notwithstanding any provision of the Acts or the dates on which they were passed, in deducing any relationship between persons for the purposes of the Acts, the Acts shall be construed in accordance with section 3 of the Status of Children Act, 1987. 45

(3) This section shall have effect—

- 5 (i) in relation to the Tax Acts, as respects the year 1987-88 and subsequent years of assessment or accounting periods ending on or after the 14th day of January, 1988, as the case may be,
- (ii) in relation to the Capital Gains Tax Acts, as respects disposals made on or after the 14th day of January, 1988,
- 10 (iii) in relation to the Capital Acquisitions Tax Act, 1976, as respects gifts and inheritances taken on or after the 14th day of January, 1988, and
- (iv) in relation to the statutes relating to stamp duties, as respects any instrument executed on or after the 14th day of January, 1988.

15 75.—The power of the Minister to guarantee—

(a) under section 14 of the Agricultural Credit Act, 1978, the repayment of any money raised or borrowed by the Agricultural Credit Corporation plc, and

Guarantee of deposits with Agricultural Credit Corporation plc and Industrial Credit Corporation plc.

20 (b) under section 3 of the Industrial Credit (Amendment) Act, 1958, the repayment of any money raised or borrowed by the Industrial Credit Corporation plc,

shall include, and be deemed always to have included, the power to guarantee the repayment of moneys (including money in a currency other than the currency of the State) deposited with the Agricultural Credit Corporation plc., and the Industrial Credit Corporation plc.

25

76.—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.

77.—(1) This Act may be cited as the Finance Act, 1988.

Short title, construction and commencement.

30 (2) *Part I* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

35 (3) *Part II* (so far as relating to customs) shall be construed together with the Customs Acts and (so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties.

40 (4) *Part III* shall be construed together with the Value-Added Tax Acts, 1972 to 1987, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1988.

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

45 (6) *Part V* shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act

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and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

(7) *Part VI* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts and (so far as relating to value-added tax) shall be construed together with the Value-Added Tax Acts, 1972 to 1988, and (so far as relating to stamp duties) shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act and (so far as relating to gift tax or inheritance tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act and (so far as relating to the Local Loans Fund) shall be construed together with the Local Loans Fund Acts, 1935 to 1987, and may be cited together therewith as the Local Loans Fund Acts, 1935 to 1988.

(8) *Part I* 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, 1988.

(9) *Part III*, other than *section 60*, shall be deemed to have come into force and shall take effect as on and from the 1st day of March, 1988, and the said *section 60* shall take effect as on and from the 1st day of October, 1988.

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

(11) In this Act, a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(12) In this Act, a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Section 3.

FIRST SCHEDULE

AMENDMENT OF ENACTMENTS

Amendments Consequential on Changes in Personal Reliefs

1. The Income Tax Act, 1967, is hereby amended in accordance with the following provisions: 40

(a) in section 138—

(i) in paragraph (a), by the substitution of “£4,100” for “£4,000” (inserted by the Finance Act, 1986),

(ii) in paragraph (b)—

(I) by the substitution in subparagraph (i) of “£2,550” for “£2,500” (inserted by the Finance Act, 1986), and

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

“(ii) is a widowed person, other than a person to whom paragraph (a) applies, whose spouse has died in that year of assessment, a deduction of £4,100, and”,

5

and

(iii) in paragraph (c), by the substitution of “£2,050” for “£2,000” (inserted by the Finance Act, 1986),

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(b) in section 138A(2) (inserted by the Finance Act, 1985), by the substitution of “£1,550” for “£1,500” (inserted by the Finance Act, 1986) and of “£2,050” for “£2,000” (inserted by the Finance Act, 1986), and

(c) in section 138B(1), by the substitution of “£800” for “£700” (inserted by the Finance Act, 1986) in each place where it occurs.

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SECOND SCHEDULE

TAX CREDITS

PART I

Amendments Consequential on Changes in Amounts of Tax Credits Section 31. in respect of Distributions

20

1. The provisions referred to in section 31 (1) are the following:

(a) sections 45 (5), 64 (2), 66 (2), 67, 82 (2), 82 (7), 83 (4), 88 (2) and 178 of the Corporation Tax Act, 1976,

25

(b) in subparagraph (ii) (as amended by the Finance Act, 1977) of section 66 (3) (b) of the Corporation Tax Act, 1976, the expression “income tax at the standard rate”,

(c) in subparagraph (iii) (inserted by the Finance Act, 1977) of the said section 66 (3) (b), the expression “standard rate per cent.” in each place where it occurs, and

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(d) in section 79 (6) of the Corporation Tax Act, 1976, the definition of “A” in paragraph (b).

2. (1) For the purposes of this paragraph and section 45 (5) of the Corporation Tax Act, 1976—

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(a) where an accounting period begins before the 6th day of April, 1988, and ends on or after that date, it shall be divided into one part, beginning on the day on which the accounting period begins and ending on the 5th day of April, 1988, and another part beginning on the 6th day of April, 1988, and ending on the day on which the accounting period ends and both parts shall be treated as separate accounting periods,

40

and

45

(b) where an accounting period begins before the 6th day of April, 1989, and ends on or after that day, it shall be divided into one part, beginning on the day on which the accounting period begins and ending on the 5th day of

April, 1989, and another part beginning on the 6th day of April, 1989, and ending on the day on which the accounting period ends and both parts shall be treated as separate accounting periods.

(2) As respects any accounting period beginning on or after the 6th day of April, 1988, subsection (5) of section 45 of the Corporation Tax Act, 1976, is hereby amended by the substitution for the words from "but the restriction" to the end of the subsection of "but the amount of the tax credit, or aggregate of tax credits if more than one distribution has been received, which may be so set off shall not exceed an amount determined by the formula

$$\frac{S \times (A - B)}{100}$$

where—

S is the standard rate per cent. for the year of assessment in which the distribution is made,

A is the portion of the income from investments which is chargeable to corporation tax by virtue of section 43 (3), or, as the case may be, the portion, determined in accordance with subsection (4), of the income from investments which is included in computing the total amount of the profits of the company arising from its general annuity business, and

B is the aggregate of the payments, the income tax on which, having regard to subsection (3) or (4), as the case may be, the company is entitled to set off against corporation tax by virtue of a claim under section 8 (3)."

3. (1) This paragraph applies to a distribution which is made by a company in the year 1988-89 and to which section 64 of the Corporation Tax Act, 1976, applies.

(2) Neither section 28 (7) of the Finance Act, 1978, nor section 28 (3) of the Finance Act, 1983, shall apply to a distribution to which this paragraph applies.

(3) The reference to certain tax credits in the definition of "B" in subsection (2) of section 64 of the Corporation Tax Act, 1976, shall, in relation to distributions which were received by a company which makes a distribution to which this paragraph applies, be construed—

(a) as a reference to such tax credits multiplied by .8739 in so far as they are tax credits in respect of distributions which were made before the 6th day of April, 1978, or after the 5th day of April, 1983, and before the 6th day of April, 1988, and

(b) as a reference to such tax credits multiplied by 1.0980 in so far as they are tax credits in respect of distributions which were made after the 5th day of April, 1978, and before the 6th day of April, 1983.

4. (1) This paragraph applies to a distribution which is made by a company in the year 1989-90 or subsequent years of assessment, and to which section 64 of the Corporation Tax Act, 1976, applies.

(2) Neither section 28 (7) of the Finance Act, 1978, nor section 28 (3) of the Finance Act, 1983, shall apply to a distribution to which this paragraph applies.

(3) The reference to certain tax credits in the definition of "B" in subsection (2) of section 64 of the Corporation Tax Act, 1976, shall, in relation to distributions which were received by a company which makes a distribution to which this paragraph applies, be construed—

- 5 (a) as a reference to such tax credits multiplied by .7222 in so far as they are tax credits in respect of distributions which were made before the 6th day of April, 1978, or which were made after the 5th day of April, 1983, and before the 6th day of April, 1988,
- 10 (b) as a reference to such tax credits multiplied by .9074 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1978, and before the 6th day of April, 1983, and
- 15 (c) as a reference to such tax credits multiplied by .8264 in so far as they are tax credits in respect of distributions made in the year 1988-89.

PART II

Amendments of Chapter VI (Corporation Tax: Relief in Relation to Certain Income of Manufacturing Companies) of Part I of Finance Act, 1980 Section 32.

20

1. Chapter VI of Part I of the Finance Act, 1980, is hereby amended as respects distributions made on or after the 6th day of April, 1989—

- (a) by the substitution for subsection (7) of section 45 of the following subsection:

25

“(7) Where it appears to the inspector, that the amount of the tax credit to which the recipient of a relevant distribution (including part of a distribution which is treated under subsection (2) as a relevant distribution) was shown to be entitled on the statement annexed to or accompanying any warrant or cheque or other order mentioned in section 5 of the Corporation Tax Act, 1976, or in any statement mentioned in section 83 (5) of that Act, exceeds the amount of the tax credit to which the recipient of the statement should have been shown to be entitled on that statement by reference to the provisions of this section, the inspector may make an assessment to income tax on the company under Case IV of Schedule D for the year of the assessment in which the statement is made, on an amount the income tax on which, at the standard rate for the said year of assessment, is equal to the amount by which the tax credit shown in the statement exceeds the tax credit to which the recipient of that statement should have been shown to be entitled on that statement:

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45

Provided that—

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- (a) any amount on which, by virtue of this subsection, income tax is charged on a company by an assessment under Case IV of Schedule D shall not be regarded as income of the company for any purpose of the Tax Acts, and

- (b) the provisions of this subsection shall not apply

if the inspector, or, on appeal, the Appeal Commissioners, is or are satisfied that, either by reason of a correction by the company of the statement annexed to or accompanying the relevant warrant or cheque or other order mentioned in section 5 of the Corporation Tax Act, 1976, or of the statement mentioned in section 83 (5) of that Act, or for any other good and sufficient reason, it would be just and reasonable that they should not apply.”, 10

(b) by the deletion of “or C” from subsection (2) of section 46,

(c) by the substitution for paragraph (i) (as amended by section 26 of, and Part II of Schedule 2 to, the Finance Act, 1982) of section 47 (2) of the following paragraph:

“(i) the amount of the company’s income which, apart from this paragraph, falls to be taken into account in the definitions in section 45 (1) of A, in respect of the relevant accounting period and of R, in respect of the accounting period, shall be reduced as follows: 15 20

(I) as respects A, by the amount determined by the formula

$$G \times \frac{5}{4} \times \frac{H}{J}$$

where—

G is the amount of the reduction in the relief in respect of the trade for the accounting period under the provisions of the said paragraph (bb) of the said proviso, 25

H is the income of the accounting period within the meaning of section 28 (8) of the Corporation Tax Act, 1976, and 30

J is the relevant corporation tax for the accounting period within the meaning of the said section 182, and

(II) as respects R, by an amount determined by the formula 35

$$V \times \frac{H}{J}$$

where—

H and J have the same meanings as in subparagraph (I) of this paragraph, and

V is the amount of the relief for the accounting period under the said section 182 before any reduction in that relief under paragraphs (b) and (bb) of the proviso to subsection (3) (b) of that section, and”, 40

(d) by the deletion of “or D” from paragraph (ii) (as amended

by section 26 of, and Part II of Schedule 2 to, the Finance Act, 1982) of section 47 (2),

(e) by the substitution for paragraph (i) of subsection (2) of section 48 of the following paragraph:

5 “(i) the amount of the company’s income which, apart from this paragraph, falls to be taken into account in the definition in section 45 (1) of A, in respect of the relevant accounting period, and
10 of R, in respect of the accounting period, shall be reduced as follows:

(I) as respects A, by an amount determined by the formula

$$K \times \frac{L}{M} \times \frac{N}{P}$$

where—

15 K is the amount of the relief for the accounting period under the said section 184 before any reduction in that relief under the provisions of the proviso to subsection (3) (b) of that section,

20 L is the income of the accounting period within the meaning of section 28 (8) of the Corporation Tax Act, 1976,

25 M is the relevant corporation tax within the meaning of section 182 of the Corporation Tax Act, 1976, in relation to the accounting period,

N is the income from the sale of goods, within the meaning of section 41, for the relevant accounting period, and

30 P is the total income brought into charge to corporation tax for the accounting period,

and

(II) as respects R, by an amount determined by the formula

$$K \times \frac{L}{M}$$

where—

35 K, L, and M have the same meanings as in clause (I) of this paragraph,

and”,

40 (f) by the deletion of “or D” from paragraph (ii) (as amended by section 26 of, and Part II of Schedule 2 to, the Finance Act, 1982) of section 48 (2), and

(g) by the substitution for subsection (2) of section 49 of the following subsection:

“(2) Where the whole or part of a supplementary distribution under subsection (1) which is a relevant distribution within the meaning of section 45 is received by a company in an accounting period, then, for the purposes of that section— 5

- (a) the whole or part, as the case may be, of the supplementary distribution shall be an amount taken into account under the definition of E, and
- (b) the whole of the supplementary distribution shall be an amount taken into account under the definition of T 10

in the formulae in subsections (1) and (1B) of the said section.”.

THIRD SCHEDULE

Section 33.

CHANGES IN RATES OF CORPORATION TAX:
CONSEQUENTIAL PROVISIONS 15

PART I

Application of sections 6 (3), 13 (1B), 28, 79, 182 and 184 of Corporation Tax Act, 1976, for financial years 1988 and 1989

1. (a) Section 6 (3) and the proviso to section 13 (1B) of the Corporation Tax Act, 1976, shall have effect, as respects accounting periods ending on or after the 1st day of April, 1988, as if— 20

(i) the period beginning on the 1st day of January, 1987, and ending on the 31st day of March, 1988, 25

(ii) the period beginning on the 1st day of April, 1988, and ending on the 31st day of March, 1989, and

(iii) the period beginning on the 1st day of April, 1989, and ending on the 31st day of December, 1990,

were each a financial year. 30

(b) Section 13 (1B) of the said Act is hereby amended, as respects accounting periods ending on or after the 1st day of April, 1988, by the substitution for the proviso of the following proviso:

“Provided that, for the purposes of the foregoing provision of this subsection, where part of the accounting period falls in one financial year (referred to hereafter in this proviso as the ‘first-mentioned financial year’) and the other part falls in the financial year succeeding the first-mentioned financial year and different rates are in force under section 1 (1) for each of those years, ‘the rate specified in section 1 (1)’ shall be deemed to be a rate per cent. calculated by the formula 35 40

$$\frac{(A \times C)}{E} + \frac{(B \times D)}{E}$$

where—

- 5 A is the rate per cent. in force for the first-mentioned financial year,
B is the rate per cent. in force for the financial year succeeding the first-mentioned financial year,
C is the length of that part of the accounting period falling in the first-mentioned financial year,
10 D is the length of that part of the accounting period falling in the financial year succeeding the first-mentioned financial year, and
E is the length of the accounting period.”.

2. (1) For the purposes of *section 33 (2)* and sections 28 and 79 of the Corporation Tax Act, 1976, where an accounting period begins before the 1st day of April, 1989, and ends on or after that day, it shall be divided into one part, beginning on the day on which the accounting period begins and ending on the 31st day of March, 1989, and another part, beginning on the 1st day of April, 1989, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

20 (2) (a) Section 28 (as amended by section 21 of the Finance Act, 1978) of the Corporation Tax Act, 1976, is hereby amended as respects any accounting period ending on or after the 1st day of April, 1988, by the substitution for “25 per cent.” of “17.5 per cent.” in subsection (2).

25 (b) For the purposes of this subparagraph and the said section 28, where an accounting period begins before the 1st day of April, 1988, and ends on or after that day, it shall be divided into one part, beginning on the day on which the accounting period begins and ending on the 31st day of March, 1988, and another part, beginning on the 1st day of April, 1988 and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

3. (1) For the purposes of *subparagraph (3)* and of sections 182 and 184 of the Corporation Tax Act, 1976—

40 (a) where an accounting period begins before the 1st day of April, 1988, and ends on or after that day, it shall be divided into one part, beginning on the day on which the accounting period begins and ending on the 31st day of March, 1988, and another part beginning on the 1st day of April, 1988, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods, and

45 (b) where an accounting period begins before the 1st day of April, 1989, and ends on or after that day, it shall be divided into one part beginning on the day on which the accounting period begins and ending on the 31st day of March, 1989, and another part, beginning on the 1st day of April, 1989, and ending on the day on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods.

(2) Where, under *subparagraph (1)* a part of an accounting period

is treated as a separate accounting period, the corporation tax charged for the part which is so treated shall, in so far as it is affected by the rate of corporation tax which is taken to have been charged, be taken, for the purposes of the said section 184, to be the corporation tax which would have been charged if that part were a separate accounting period. 5

(3) Sections 182 (3) and 184 (3) of the said Act shall have effect for any accounting period beginning on or after the 1st day of April, 1988, as if the standard rate were—

- (a) 32 per cent. for the year 1988-89, and 10
- (b) 28 per cent. for the year 1989-90 and each subsequent year of assessment.

PART II

Amendment of Chapter VI (Corporation Tax: Relief in Relation to Certain Income of Manufacturing Companies) of Part I of Finance Act, 1980 15

1. (1) As respects any accounting period which begins before the 1st day of April, 1988, and ends on or after that day, section 41 (2) (as amended by the Finance Act, 1982) of the Finance Act, 1980, referred to subsequently in this Part as "section 41 (2)" shall have effect as if for the words from "shall be reduced by four-fifths" to the end of the subsection there were substituted the following: 20

"shall be reduced—

- (a) by four-fifths, in so far as it is corporation tax charged on profits which, under section 6 (3) of the Corporation Tax Act, 1976, are apportioned to the period beginning on the 1st day of January, 1987, and ending on the 31st day of March, 1988, and 25
- (b) by thirty-seven-forty-sevenths, in so far as it is corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of April, 1988, and ending on the 31st day of March, 1989, 30

and the corporation tax referable to the income from the sale of those goods—

- (i) shall, for the purposes of paragraph (a), be such an amount as bears to the part of the relevant corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of January, 1987, and ending on the 31st day of March, 1988, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period, and 35 40
- (ii) shall, for the purposes of paragraph (b), be such an amount as bears to the part of the relevant corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of April, 1988, and ending on the 31st day of March, 1989, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period." 45 50

(2) As respects any accounting period beginning on or after the 1st day of April, 1988, and ending on or before the 31st day of March, 1989, section 41 (2) shall have effect as if for "four-fifths" there were substituted "thirty-seven-forty-sevenths".

5 (3) As respects any accounting period which begins before the 1st day of April, 1989, and ends on or after that date, section 41 (2) shall have effect as if for the words from "shall be reduced by four-fifths" to the end of the subsection there were substituted the following:

"shall be reduced—

10 (a) by thirty-seven-forty-sevenths, in so far as it is corporation tax charged on profits which, under section 6 (3) of the Corporation Tax Act, 1976, are apportioned to the period beginning on the 1st day of April, 1988, and ending on the 31st day of March, 1989, and

15 (b) by thirty-three-forty-thirds, in so far as it is corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of April, 1989, and ending on the 31st day of December, 1990,

20 and the corporation tax referable to the income from the sale of those goods—

(i) shall, for the purposes of paragraph (a), be such an amount as bears to the part of the relevant corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of April, 1988, and ending on the 31st day of March, 1989, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period, and

30 (ii) shall, for the purposes of paragraph (b), be such an amount as bears to the part of the relevant corporation tax charged on profits which, under the said section 6 (3), are apportioned to the period beginning on the 1st day of April, 1989, and ending on the 31st day of December, 1990, the same proportion as the income from the sale of those goods bears to the total income brought into charge to corporation tax for the relevant accounting period."

40 (4) Section 41 (2) is hereby amended as respects any accounting period beginning on or after the 1st day of April, 1989, by the substitution of "thirty-three-forty-thirds" for "four-fifths".

2. (1) As respects any accounting period beginning on or after the 1st day of April, 1988, and ending on or before the 31st day of March, 1989, sections 47 (2) and 48 (2) (as amended by the Finance Act, 1982) of the Finance Act, 1980, shall have effect as if—

45 (a) in paragraph (i) of section 47 (2), for "5/4" there were substituted "47/37",

(b) in paragraph (ii) of the said section 47 (2), for "1/4" there were substituted "10/37", and

50 (c) in paragraph (ii) of section 48 (2), for "1/4" there were substituted "10/37".

(2) Sections 47 (2) and 48 (2) of the Finance Act, 1980, are hereby amended as respects any accounting period beginning on or after the 1st day of April, 1989—

- (a) in paragraph (i) of section 47 (2), by the substitution of "43/33" for "5/4", 5
- (b) in paragraph (ii) of the said section 47 (2), by the substitution of "10/33" for "1/4", and
- (c) in paragraph (ii) of the said section 48 (2), by the substitution of "10/33" for "1/4".

(3) Where by virtue of *paragraph 3 (1) of Part 1* a part of an accounting period is treated as a separate accounting period for the purposes of sections 182 and 184 of the Corporation Tax Act, 1976, that part shall also be treated as a separate accounting period for the purposes of this paragraph and for the purposes of sections 47 (2) and 48 (2) of the Finance Act, 1980, and the corporation tax charged for a part of an accounting period which is so treated shall, in so far as it is affected by the rate of corporation tax which is taken to have been charged, be taken, for the purposes of the said sections 47 (2) and 48 (2), to be the corporation tax which would have been charged if that part were a separate accounting period. 10
15
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Section 55.

FOURTH SCHEDULE

RATES OF EXCISE DUTY ON TOBACCO PRODUCTS

Description of Product	Rate of Duty
Cigarettes	£39.60 per thousand together with an amount equal to 13.33 per cent. of the price at which the cigarettes are sold by retail.
Cigars	£58.444 per kilogram
Sweetened pipe tobacco	£59.059 per kilogram
Hard pressed tobacco	£37.768 per kilogram
Other pipe tobacco	£47.476 per kilogram
Other smoking or chewing tobacco ...	£49.318 per kilogram

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*Meastar a bheith rite ag dhá
Teach an Oireachtais,
19 Bealtaine, 1988*

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*Deemed to have been passed by
both Houses of the Oireachtas,
19th May, 1988*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

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