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FINANCE ACT, 2002

ARRANGEMENT OF SECTIONS

Section

CHAPTER 3

Income Tax, Corporation Tax and Capital Gains Tax

Section

Section

PART 3

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PART 4

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PART 5

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FINANCE ACT, 2002

AN ACT TO PROVIDE FOR THE IMPOSITION, REPEAL, REMISSION, ALTERATION AND REGULATION OF TAXATION, OF STAMP DUTIES AND OF DUTIES RELATING TO EXCISE AND OTHERWISE TO MAKE FURTHER PROVISION IN CONNECTION WITH FINANCE INCLUDING THE REGULATION OF CUSTOMS.

[25*th March*, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

Interpretation (*Part 1*).

1.—In this Part, ''Principal Act'' means the Taxes Consolidation Act, 1997.

Chapter 2

Income Tax

Amendment of section 15 (rate of charge) of Principal Act.

2.—As respects the year of assessment 2002 and subsequent years of assessment, section 15 of the Principal Act is amended by substituting—

(*a*) ''€19,000'' for ''€13,967'' in subsection (3), and

(*b*) the following Table for the Table to that section:

''TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €28,000	20 per cent	the standard rate
The remainder	42 per cent	the higher rate

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PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €32,000	20 per cent	the standard rate
The remainder	42 per cent	the higher rate

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €37,000	20 per cent	the standard rate
The remainder	42 per cent	the higher rate

".

Personal tax credits.

3.—(1) Where an individual is entitled under a provision of the Principal Act mentioned in *column (1)* of the Table to this subsection to have the income tax to be charged on the individual, other than in accordance with the provisions of section 16(2) of the Principal Act, reduced for the year of assessment 2002 or any subsequent year of assessment and the amount of the reduction would, but for this section, be an amount which is the lesser of—

(*a*) the amount specified in *column (2)* of that Table, and

(*b*) the amount which reduces that liability to nil,

the amount of the reduction in accordance with *paragraph (a)* shall be the amount of the tax credit specified in *column (3)* of the Table.

TABLE

Statutory Provision (1)	Existing tax credit (full year) (2)	Tax credit for the year 2002 and subsequent years (3)
Section 461 (basic personal tax credit)		
(married person) … … …	€2,794	€3,040
(widowed person bereaved in the year of assessment) … … …	€2,794	€3,040
(single person) … … …	€1,397	€1,520
Section 461A (additional tax credit for certain widowed persons) … … …	€254	€300
Section 462 (one-parent family tax credit)	€1,397	€1,520
Section 463 (widowed parent tax credit)		
(1st year) … … … …	€2,540	€2,600
(2nd year) … … … …	€2,032	€2,100
(3rd year) … … … …	€1,524	€1,600
(4th year) … … … …	€1,016	€1,100
(5th year) … … … …	€508	€600

Statutory Provision (1)	Existing tax credit (full year) (2)	Tax credit for the year 2002 and subsequent years (3)
Section 464 (age tax credit)		
(married person)	€408	€410
(single person)	€204	€205
Section 465 (incapacitated child tax credit)... ...	€408	€500
Section 466 (dependent relative tax credit)... ...	€56	€60
Section 466A (home carer tax credit)	€762	€770
Section 468 (blind person's tax credit)		
(blind person)	€762	€800
(both spouses blind)...	€1,524	€1,600
Section 472 (employee tax credit)	€508	€660

(2) Section 2 of the Finance Act, 2001, shall have effect subject to the provisions of this section.

(3) *Schedule (1)* shall apply for the purpose of supplementing *subsection (1)*.

Age exemption.

4.—As respects the year of assessment 2002 and subsequent years of assessment, section 188 of the Principal Act is amended, in subsection (2), by substituting ''€26,000'' for ''€21,586'' and ''€13,000'' for ''€10,793''.

Amendment of section 467 (employed person taking care of incapacitated individual) of Principal Act.

5.—As respects the year of assessment 2002 and subsequent years of assessment, section 467 of the Principal Act is amended by substituting ''€30,000'' for ''€12,700'' in both places where it occurs.

Amendment of section 477 (relief for service charges) of Principal Act.

6.—Section 477 is amended—

(*a*) in subsection (1), by deleting '' 'specified limit' means €195.'',

(*b*) in subsection (2), by deleting paragraph (*b*),

(*c*) in subsection (5)(*a*), by deleting ''paragraph (*a*)(i) of'' and by substituting ''paragraph (*c*) of that subsection'' for ''clause (III) of that paragraph'',

(*d*) in subsection (6), by substituting the following for paragraph (*c*):

''(*c*) Each local authority shall, on or before 1 November each year, provide the Revenue Commissioners with a return in such computerised format as the Revenue Commissioners may require for the purposes of giving effect to the

relief provided for in this section and containing, in respect of every claimant who has furnished an identifying number mentioned in subsection (4), the details specified in subparagraphs (i), (iii) and (iv) of paragraph (*b*).'',

and

(*e*) by substituting the following for subsection (7):

''(7) Where the service consists of the provision of domestic refuse collection or disposal, is provided and charged for by a person or body of persons other than a local authority, and where such person or body of persons has—

(*a*) notified its provision to the local authority in whose functional area such service is provided,

(*b*) furnished to that local authority such information as the local authority may from time to time request concerning that person or body of persons or the service provided by that person or body of persons, and

(*c*) given a receipt or acknowledgement to a claimant containing—

(i) the name, address and, as may be appropriate, the income tax or corporation tax reference number of the person or body of persons,

(ii) the claimant's name and address,

(iii) the amount paid, and

(iv) the financial year in respect of which the payment for the service was paid,

a claimant shall be entitled to relief, subject to this section other than subsection (6), in respect of the amount paid.

(7A) Where the service consists of the provision of domestic refuse collection or disposal, is provided by a local authority or a person or body of persons referred to in subsection (7)(*a*), is charged for other than by means of a specified annual charge in respect of that service, and a claimant is not entitled to make a claim for relief either under subsection (2), in respect of the provision of domestic refuse collection or disposal, or subsection (7), the claimant shall for the purposes of this section be taken to have made a payment of €195 in respect of that service and shall be entitled to relief, subject to this section other than subsections (5) and (6), in respect of such an amount.

(7B) Where a service charge is imposed in respect of the provision of a service other than a service referred to in subsections (7) and (7A), those subsections shall apply only where the claimant also qualifies for relief under this section in respect of the service charge.''.

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

7.—Section 126 of the Principal Act is amended by substituting the following for paragraph (*b*) (inserted by the Finance Act, 2001) of subsection (8):

''(*b*) Notwithstanding subsection (3) and the Finance Act, 1992 (Commencement of Section 15) (Unemployment Benefit and Pay-Related Benefit) Order 1994 (S.I. No. 19 of 1994), subsection (3)(*b*) shall not apply in relation to unemployment benefit paid or payable, in the period commencing on 6 April 1997 and ending on 31 December 2002, to a person employed in short-time employment.''.

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

8.—Section 122 of the Principal Act is amended, as respects the year of assessment 2002 and subsequent years of assessment, by substituting ''5 per cent'' for ''6 per cent'' in both places where it occurs in the definition of ''the specified rate'' in paragraph (*a*) of subsection (1).

Amendment of section 469 (relief for health expenses) of Principal Act.

9.—As respects the year of assessment 2002 and subsequent years of assessment section 469 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) by substituting the following for the definition of ''dependant'':

'' 'dependant' in relation to an individual, means—

(*a*) a relative of the individual, and

(*b*) any other person being—

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

(ii) an individual who is permanently incapacitated by reason of mental or physical infirmity,'',

(ii) in the definition of ''health expenses''—

(I) in paragraph (*g*), by deleting ''or'' after ''practitioner,'', and

(II) in paragraph (*h*), by substituting ''ambulance, or'' for ''ambulance,'',

(iii) in the definition of ''routine ophthalmic treatment'' by substituting ''contact lenses;'' for ''contact lenses.'', and

(iv) by inserting the following definition after the definition of ''qualified person'':

'' 'relative', in relation to an individual, means—

(*a*) husband, wife, ancestor, lineal descendant, brother or sister,

(*b*) mother or father of the individual's spouse,

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(*c*) brother or sister of the individual's spouse,

(*d*) spouse of the individual's son or daughter, and

(*e*) a child, not being a child of the individual, who for the year of assessment—

(i) is in the custody of the individual and is maintained by the individual at the individual's own expense for the whole or part of the year of assessment, and

(ii) (I) is under the age of 18 years, or

(II) if over the age of 18 years, at the commencement of the year of assessment, is receiving full-time instruction at any university, college, school or other educational establishment;'',

and

(*b*) by deleting subsection (4).

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

10.—(1) Part 30 of the Principal Act is amended:

(*a*) in Chapter 1—

(i) in subsection (3) of section 772—

(I) by substituting the following for paragraph (*b*):

''(*b*) that any pension for any widow, widower, children or dependants of an employee who dies before retirement shall be a pension or pensions payable on the employee's death of an amount that does not or, as the case may be, do not in aggregate exceed any pension or pensions which, consonant with the condition in paragraph (*a*), could have been provided for the employee on retirement on attaining the specified age, if the employee had continued to serve until the employee attained that age at an annual rate of remuneration equal to the employee's final remuneration;'',

(II) by substituting the following for paragraph (*d*):

''(*d*) that any benefit for any widow, widower, children or dependants of an employee payable on the employee's death after retirement is a pension or pensions such that the aggregate amount of such pension or, as the case may be, pensions so payable does not exceed any pension or pensions payable to the employee;'',

and

(III) by deleting paragraph (*e*),

(ii) in subsection (7) of section 774, by substituting the following for paragraph (*c*):

''(*c*) The aggregate amount of annual contributions (whether ordinary annual contributions or contributions treated as ordinary annual contributions) allowed to be deducted in any year shall not exceed—

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

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

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

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

of the remuneration for that year of the office or employment in respect of which the contributions are paid.'',

(iii) in subsection (2) of section 776, by substituting the following for paragraph (*c*):

''(*c*) The aggregate amount of annual contributions (whether ordinary annual contributions or contributions treated as ordinary annual contributions) allowed to be deducted in any year shall not exceed—

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

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

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

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

of the remuneration for that year of the office or employment in respect of which the contributions are paid.'',

and

(iv) in section 780(5), by substituting ''the standard rate in force at the time of payment'' for ''25 per cent'',

and

(*b*) in Chapter 2, by substituting the following for subsection (1) of section 784:

''(1) (*a*) Where an individual, being an individual referred to in paragraph (*b*), pays a premium or other consideration under an annuity contract for the time being approved by the Revenue Commissioners as being a contract by which the main benefit secured is, or would, but for the exercise of an option by the individual under subsection (2A), be a life annuity for the individual in his or her old age or under a contract for the time being approved under section 785 (in this Chapter referred to as a 'qualifying premium'), relief from income tax may be given in respect of the qualifying premium under section 787.

(*b*) An individual referred to in this paragraph is an individual who is or was (or but for an insufficiency of profits or gains would be or would have been) for any year of assessment chargeable to tax in respect of relevant earnings from any trade, profession, office or employment carried on or held by him or her and who paid a qualifying premium in that year.''.

(2) (*a*) *Paragraph (a)(i)* of *subsection (1)* applies from the passing of this Act.

(*b*) *Paragraph (a)(iv)* of *subsection (1)* applies to any repayment of contributions referred to in section 780 of the Principal Act which is made on or after 5 December 2001.

(*c*) *Subsection (1)* (other than *paragraphs (a)(i)* and *(a)(iv)*) applies as respects the year of assessment 2002 and subsequent years of assessment.

Amendment of section 128 (tax treatment of directors of companies and employees granted rights to acquire shares or other assets) of Principal Act.

11.—(1) Section 128 of the Principal Act is amended—

(*a*) in subsection (1), by inserting the following in paragraph (*a*) before the definition of ''company'':

'' 'branch or agency' has the same meaning as in section 4;'',

(*b*) in subsection (11), by substituting ''31 March'' for ''30 June'', and

(*c*) by substituting the following for subsection (11A) (inserted by the Finance Act, 2000): PT.1 S.11

''(12) Where in relation to any right—

(*a*) the person referred to in subsection (11) is not resident in the State, and

(*b*) the person who obtains the right is a director or employee of a company which is either—

(i) resident in the State, or

(ii) not resident in the State but carries on a trade, profession or vocation in the State through a branch or agency in which the director or employee is employed,

subsection (11) shall, as regards a company referred to in paragraph (*b*)(i) apply to the company, and, as regards a company referred to in paragraph (*b*)(ii) apply to its agent, manager, factor or other representative.''.

(2) (*a*) *Paragraphs (a)* and *(c)* of *subsection (1)* shall apply with effect from the passing of this Act.

(*b*) *Paragraph (b)* of *subsection (1)* applies as respects the year of assessment 2002 and subsequent years.

Relief on retirement for certain income of certain sportspersons.

12.—Chapter 1 of Part 15 of the Principal Act is amended by inserting the following section after section 480:

''480A.—(1) In this section 'basis period', in relation to a year of assessment, means the period on the profits or gains of which income tax for the year of assessment is to be finally computed under the Income Tax Acts.

(2) Notwithstanding any other provision of the Income Tax Acts other than section 1006A, this section applies where in the year of assessment 2002 or any subsequent year of assessment an individual (in this section referred to as the 'relevant individual') who is resident in the State for that year of assessment and engaged in an occupation (in this section referred to as the 'specified occupation'), or carries on a profession (in this section referred to as the 'specified profession'), specified in Schedule 23A proves to the satisfaction of the Revenue Commissioners that he or she has in that year of assessment ceased permanently to be engaged in the specified occupation or to carry on the specified profession, as the case may be.

(3) Where this section applies, the relevant individual shall, on the making of a claim in that behalf, be entitled to have a deduction made from his or her total income for up to any 10 of the years of assessment mentioned in subsection (4).

(4) The years of assessment referred to in subsection (3) are the year of assessment in which the relevant individual ceases permanently to be engaged in the specified occupation or to carry on the specified profession, as the case may be, and any previous year of assessment not being earlier than the year of

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assessment 1990-91, for which the relevant individual was resident in the State.

(5) The amount of the deduction to be made under subsection (3) for any year of assessment shall be an amount equal to 40 per cent of the receipts, before deducting expenses, of the relevant individual for the basis period for that year of assessment which arose wholly and exclusively from the engagement of the relevant individual in the specified occupation or from the carrying on by the relevant individual of the specified profession, as the case may be.

(6) For the purposes of subsection (5), receipts shall be regarded as deriving wholly and exclusively from the engagement of the relevant individual in the specified occupation or from the carrying on by the relevant individual of the specified profession, as the case may be, only to the extent that such receipts derive directly from the actual participation by the relevant individual in the sport associated with the specified occupation or the specified profession, and accordingly—

(*a*) include—

(i) where the relevant individual is an employee, so much of all salaries, fees, wages, bonuses or perquisites paid to the relevant individual by his or her employer as a direct consequence of the participation by the relevant individual in the sport associated with the specified occupation, and

(ii) where the relevant individual carries on the specified profession, all match or performance fees, prize moneys and appearance moneys paid to the relevant individual by any other person as a direct consequence of the participation of the relevant individual in the sport associated with the specified profession,

but

(*b*) do not include—

(i) sponsorship moneys received by the relevant individual, or

(ii) receipts received by the relevant individual for participation in advertisements, promotions, videos or television or radio programmes, or for personal appearances or interviews, newspaper or magazine articles, or for the right to use the individual's image or name to promote or endorse products or services or in any other manner.

(7) A claim under this section shall be included in the return of income to be made by the relevant individual for the year of assessment in which the relevant individual ceases permanently to be engaged in the specified occupation, or to carry on the specified profession, as the case may be.

(8) (*a*) Relief from income tax under this section shall in all cases be given by means of repayment.

(*b*) Any repayment of income tax due under this section shall not carry interest. PT.1 S.12

(*c*) Relief under this section for any year of assessment shall not create or augment a loss for that year of assessment for the purposes of Chapter 1 of Part 12.

(9) A deduction given under this section for any year of assessment shall not be taken into account in determining the net relevant earnings (within the meaning of section 787) of the relevant individual for that year of assessment.

(10) Where any relief has been given to a relevant individual under this section and the relevant individual subsequently recommences to be engaged in the specified occupation or to carry on the specified profession, as the case may be, that relief shall be withdrawn by making an assessment to income tax under Case IV of Schedule D for the year of assessment for which that relief was given and, notwithstanding anything in the Income Tax Acts, such an assessment may be made at any time.''.

Amendment of provisions relating to approved profit sharing schemes and employee share ownership trusts.

13.—(1) The Principal Act is amended—

(*a*) in section 509—

(i) in subsection (1), by substituting the following for the interpretation given to ''shares'':

'''shares' includes stock and specified securities;

'specified securities' means securities (within the meaning of Schedule 12), other than ordinary shares, which—

(*a*) were transferred to the trustees of an approved scheme by the trustees of an employee share ownership trust to which section 519 applies, and

(*b*) were—

(i) securities issued to the trustees of the employee share ownership trust referred to in paragraph (*a*) in an exchange to which section 586 applies,

(ii) securities (in this subparagraph referred to as 'similar securities') similar to the securities referred to in subparagraph (i) and which were acquired by those trustees using dividends received in respect of the securities so referred to or in respect of similar securities so acquired,

(iii) securities issued to those trustees as a result of a reorganisation or reduction of share capital (in accordance with section 584) which occurred subsequent to the

exchange referred to in subparagraph (i) and which securities represent the securities issued in that exchange and the similar securities (if any) referred to in subparagraph (ii), or

(iv) securities (in this subparagraph referred to as 'similar securities') similar to the securities first-mentioned in subparagraph (iii) and which were acquired by those trustees using dividends received in respect of the securities so mentioned in subparagraph (iii) or in respect of similar securities so acquired,

but subject to the condition that, where the company which issued the securities in the exchange referred to in paragraph (*b*) is a company limited by shares (within the meaning of section 5 of the Companies Act, 1963), the trustees of the employee share ownership trust have, as a result of the exchange, acquired such percentage of the ordinary share capital of the company which issued the securities that is not less than the percentage of the ordinary share capital of the company which the trustees held immediately prior to the exchange;'',

and

(ii) by inserting the following subsection after subsection (3):

''(4) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this Chapter or by Schedule 11 to be performed or discharged by them.'',

(*b*) by substituting the following section for section 511A:

''Shares acquired from an employee share ownership trust.

511A.—(1) This section applies where, on or after the passing of the Finance Act, 1998—

(*a*) the trustees of an approved scheme make an appropriation of shares to which section 510(3) applies to a participant,

(*b*) the shares concerned had been transferred to the trustees of the approved scheme by the trustees of an employee share ownership trust to which section 519 applies, and

(*c*) the participant concerned was a beneficiary (within the meaning of paragraph 11 or 11A, as the case may be, of Schedule 12) under the employee share ownership trust concerned at

all times (other than any period which forms part of the 30 day period referred to in paragraph 12A*(b)* of Schedule 11) during the period (in this section referred to as the 'holding period')—

(i) beginning on—

(I) the day the shares concerned were acquired by that employee share ownership trust, or

(II) if later, the day that participant last became such a beneficiary,

and

(ii) ending on the day those shares were appropriated to that participant.

(2) Where this section applies, then, notwithstanding section 511—

(*a*) the period of retention, in relation to the participant and the shares concerned, ends—

(i) in the case where the holding period is 2 years or more, on the day following the end of the holding period, and

(ii) in any other case, on the day following the end of a period which, when added to the holding period, forms a period of 2 years, or, if it is earlier, on the date referred to in subparagraph (i), (ii) or (iii), as the case may be, of section 511(1)(*a*),

and

(*b*) the release date, in relation to the participant and the shares concerned, means—

(i) in the case where the holding period is 3 years or more, the day following the end of the holding period, and

(ii) in any other case, the day following the end of a period which, when added to the holding period, forms a period of 3 years.'',

(*c*) in section 519—

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(i) by substituting the following for subsection (7A):

''(7A) Where the trustees of a trust to which this section applies—

(*a*) sell securities on the open market, or

(*b*) receive a sum on the redemption of securities,

any gain accruing to such trustees shall not be a chargeable gain if, and to the extent that the proceeds of such sale or redemption, as the case may be, are used—

(i) to repay moneys borrowed by those trustees,

(ii) to pay interest on such borrowings, or

(iii) to pay a sum to the personal representatives of a deceased beneficiary.'',

(ii) by substituting the following for subsection (9)(*d*):

''(*d*) the gain accruing to the trustees of that trust from—

(i) the sale on the open market, or

(ii) the redemption,

of securities.'',

and

(iii) by substituting, in subsection (10), ''securities'' for ''shares'' in both places it occurs in paragraph (*a*) of the definition of ''deceased beneficiary'',

(*d*) in Schedule 11—

(i) by deleting paragraph 7,

(ii) by substituting, in paragraph 8, ''Subject to paragraph 8A, the shares shall form part of the ordinary share capital of—'' for ''The shares shall form part of the ordinary share capital of—'',

(iii) by substituting ''concerned,'' for ''concerned, or'' in paragraph 8(*b*),

(iv) by substituting ''so owned, or'' for ''so owned.'' in paragraph 8(*c*)(ii),

(v) by inserting the following in paragraph 8 after subparagraph (*c*):

''(*d*) a company which issued the shares to the trustees of an employee share ownership trust to which section 519 applies, in an exchange to which section 586 applies, which shares were transferred to the trustees of an approved

scheme by the trustees of the employee share ownership trust.'',

(vi) by inserting the following after paragraph 8:

''8A. Any reference in subparagraph (*d*) of paragraph 8 to shares shall be construed as including a reference to shares which were issued to the trustees of the employee share ownership trust referred to in that subparagraph as a result of a reorganisation or reduction of share capital (in accordance with section 584) which occurred subsequent to the exchange referred to in that subparagraph and which shares represent—

(*a*) the shares issued in the exchange referred to in that subparagraph, or

(*b*) the specified securities issued in the exchange referred to in paragraph (*b*) of the definition of 'specified securities' in section 509(1).'',

(vii) by substituting ''clause (*a*)'' for ''paragraph (*a*)'' in paragraph 10(3)(*b*), and

(viii) by inserting the following in Part 3 after paragraph 11:

''11A. (1) Notwithstanding any other provision of this Schedule, in the case of specified securities, this Schedule shall, with any necessary modification, apply as if this paragraph were substituted for paragraphs 8 to 11.

(2) The specified securities shall be issued by—

(*a*) a company not under the control of another company, or

(*b*) a company under the control of a company (other than a company which is, or if resident in the State would be, a close company within the meaning of section 430) whose ordinary shares are quoted on a recognised stock exchange.

(3) The specified securities shall not be subject to any restrictions other than restrictions which attach to all specified securities of the same class, or a restriction authorised by subparagraph (4).

(4) Subject to subparagraphs (5) and (6), the specified securities may be subject to a restriction imposed by the company's articles of association—

(*a*) requiring all specified securities held by directors or employees of the company or of any other company of which it has control to be disposed of on ceasing to be so held, and

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(*b*) requiring all specified securities acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not, or have ceased to be, such directors or employees to be disposed of when they are acquired.

(5) A restriction is not authorised by subparagraph (4) unless—

(*a*) any disposal required by the restriction is to be by means of a sale for a consideration in money on terms specified in the articles of association, and

(*b*) the articles also contain general provisions by virtue of which any person disposing of specified securities of the same class (whether or not held or acquired as mentioned in subparagraph (4)) may be required to sell them on terms which are the same as those mentioned in clause (*a*).'',

and

(*e*) in Schedule 12—

(i) in the definition of ''relevant company'' in paragraph 1(1)—

(I) by deleting ''or'' in clause (*a*),

(II) by substituting ''plc,'' for ''plc;'' in clause (*b*), and

(III) by inserting the following after clause (*b*):

''(*c*) ACC Bank plc, or

(*d*) a company which acquired control of the Irish National Petroleum Corporation Limited;'',

(ii) in paragraph 13(3)(*a*), by inserting ''or of securities to which subparagraph (ii) or (iv) of paragraph (*b*) of the definition of 'specified securities' in section 509(1) applies'' after ''the founding company'', and

(iii) in paragraph 15(*a*) by deleting—

(I) '', and the original shares the securities represent are shares in the founding company'', and

(II) ''and 'original shares' ''.

(2) *Subsection (1)* shall apply and have effect as on and from 16 April 2001.

Income tax: restriction on use of losses on approved buildings.

14.—Chapter 4 of Part 12 of the Principal Act is amended by inserting the following after section 409B:

''409C.—(1) In this section—

'approved building', 'the Minister' and 'qualifying expenditure' have, respectively, the meaning assigned to each of them by section 482(1)(*a*);

'the claimant' has the meaning assigned to it by section 482(2)(*a*);

'eligible charity' has the meaning assigned to it by paragraph 1 of Part 3 of Schedule 26A;

'ownership interest', in relation to a building, means an estate or interest in a building which would entitle the person who holds it, to make a claim under section 482 as owner of the building;

'relevant determinations', in relation to a building, means the determinations made by the Minister and the Revenue Commissioners, respectively, in accordance with section 482(5)(*a*).

(2) For purposes of this section, a scheme shall be a passive investment scheme, in relation to a building, in any case where—

(*a*) an ownership interest, in relation to the building, is transferred by one person (in this section referred to as the 'transferor') to another person (in this section referred to as the 'transferee'),

(*b*) at the time of the transfer, or at any time in the period of 5 years commencing at that time, the building is an approved building, and

(*c*) (i) at the time of the transfer, arrangements subsist (whether express or implied and whether or not enforceable by legal proceedings) under or by virtue of which the transferor, or any person connected with the transferor (within the meaning of section 10)—

(I) may retain the right to determine how any qualifying expenditure in relation to the building is to be incurred,

(II) may obtain, whether directly or indirectly, a payment or other benefit representing any part of the value to the transferee of relief under the Tax Acts by virtue of a claim under section 482(2) in respect of qualifying expenditure in relation to the building, or

(III) may re-acquire the transferee's ownership interest (referred to in paragraph (*a*)),

or

(ii) the transfer is made for the sole or main purpose of facilitating a claim by the transferee under section 482(2).

(3) This section applies where—

(*a*) by virtue of subsection (2) of section 482, qualifying expenditure in relation to an approved building is treated as a loss sustained in a trade carried on by a

claimant, as owner of the building, in a chargeable period (referred to in paragraph (*b*)(i) of that subsection),

(*b*) the claimant is an individual who is a transferee, and

(*c*) relief is claimed under section 381 in respect of the loss referred to in paragraph (*a*).

(4) Where this section applies, the amount of the loss referred to in subsection (3)(*a*) which can be treated as reducing income for a year of assessment under section 381(1) shall be—

(*a*) the full amount of the loss, or

(*b*) €31,750,

whichever is the lesser.

(5) Where by virtue of subsection (4) relief cannot be given for a year of assessment for part of the loss referred to in subsection (3)(*a*), then for the purposes of section 482(3) such relief shall be treated as not being given owing to an insufficiency of income.

(6) This section shall not apply—

(*a*) to qualifying expenditure, in relation to an approved building, incurred before 5 December 2001,

(*b*) to qualifying expenditure, in relation to an approved building, incurred on or after 5 December 2001 and before 31 December 2003, where the relevant determinations have been made in relation to that building before 5 December 2001,

(*c*) to qualifying expenditure, incurred before 31 December 2003, in relation to a building, in respect of which—

(i) the Revenue Commissioners have, before 5 December 2001, indicated in writing, that proposals made to them are broadly acceptable, so as to enable them to make a determination under section 482(5)(*a*), and

(ii) an officer of the Department of Arts, Heritage, Gaeltacht and the Islands has, before 5 December 2001, indicated in writing that, having inspected the building, the officer is satisfied that, if required, the officer would recommend to the Minister that a determination under section 482(5)(*a*) be made by the Minister, or

(*d*) to qualifying expenditure, incurred before 31 December 2003, in relation to a building where—

(i) the Minister has made a determination under section 482(5)(*a*) before 5 December 2001, in relation to the building, and

(ii) the claimant has undertaken to gift, whether directly or indirectly, to the transferor, who is an eligible charity, the full value of the relief to

which the individual is entitled under the Tax Acts by virtue of making a claim under section 482(2), and the individual does so.''. Pt.1 S.14

Amendment of Schedule 3 (reliefs in respect of income tax charged on payments on retirement, etc.) to Principal Act.

15.—As respects the year of assessment 2002 and subsequent years of assessment, paragraph 8 of Schedule 3 to the Principal Act is amended—

(*a*) by substituting ''in the previous 10 years of assessment'' for ''previously'', and

(*b*) by substituting ''€10,000'' for ''€5,080'' in both places where it occurs.

Chapter 3

Income Tax, Corporation Tax and Capital Gains Tax

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

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

(*a*) in section 489—

(i) by inserting the following after subsection (4):

''(4A) Notwithstanding any other provision of this section, where—

(*a*) (i) in accordance with section 508 relief is due in respect of an amount subscribed as nominee for a qualifying individual by the managers of a designated fund,

(ii) the amount so subscribed was subscribed to the designated fund in the period beginning on 1 January 2002 and ending on 31 January 2002, and

(iii) the eligible shares in respect of which the amount is subscribed by the managers of the designated fund are issued on or before 31 December 2002,

or

(*b*) eligible shares are issued by a qualifying company to a qualifying individual in the period beginning on 1 January 2002 and ending on 31 January 2002,

the qualifying individual may elect by notice in writing to the inspector to have the relief due given as a deduction from his or her total income for the year of assessment 2001 instead of (as provided for in subsection (3)) as a deduction from his or her total income for the year of assessment 2002.'',

(ii) in paragraphs (*a*) and (*b*) of subsection (5), by substituting ''6 years'' for ''5 years'', and

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(iii) in subsection (15), by substituting ''31 December 2003'' for ''31 December 2001'',

(*b*) (i) in section 490(3)(*a*), by inserting ''or (4A)'' after ''section 489(4)'', and

(ii) in subsections (3)(*b*) and (4)(*b*) of section 490, by substituting ''2003'' for ''2001'',

and

(*c*) in section 491—

(i) by substituting the following for paragraph (*a*) of subsection (2):

''(*a*) Subject to this section, where a company raises any amount through the issue of eligible shares on or after 1 January 2002 (in this section referred to as 'the relevant issue'), relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

A — B

where—

A is—

(i) in the case of a company which, or whose qualifying subsidiary, raises the amount by virtue of section 496(2)(*a*)(iv)(II), €127,000,

(ii) in the case where the money raised was used, is being used or is intended to be used solely for qualifying trading operations referred to in section 496(2)(*a*)(ix) carried on or to be carried on by the company or its qualifying subsidiary, €1,270,000, or

(iii) in any other case, €750,000,

and

B is the lesser of—

(i) the appropriate amount represented by A in the formula, and

(ii) an amount equal to the aggregate of all amounts raised by the company through the issue of eligible shares at any time before the relevant issue.'',

and

(ii) by substituting the following for paragraph (a) of subsection (3):

''(a) Where, on or after 1 January 2002, a company raises any amount through a relevant issue and that company is associated (within the meaning of this section) with one or more other companies, then, as respects that company, relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

$$A - B$$

where—

A is—

(i) in the case of a company which, or whose qualifying subsidiary, raises the amount by virtue of section 496(2)(*a*)(iv)(II), €127,000,

(ii) in the case where the money raised was used, is being used or is intended to be used solely for qualifying trading operations referred to in section 496(2)(*a*)(ix) carried on or to be carried on by the company or its qualifying subsidiary, €1,270,000, or

(iii) in any other case, €750,000,

and

B is the lesser of—

(i) the appropriate amount represented by A in the formula, and

(ii) the aggregate of all amounts raised through the issue of eligible shares at any time before or on the date of the relevant issue by all of the companies (including that company) which are associated within the meaning of this section.''.

Rental income: relief for certain interest.

17.—The Principal Act is amended—

(*a*) in section 97 by inserting the following after subsection (2F) (inserted by the Finance Act, 2001):

''(2G) Subsections (2A) to (2F) shall not apply or have effect in relation to interest on borrowed money employed in the purchase, improvement or repair of residential premises where that interest accrues on or after 1 January 2002 and, for the purposes of this subsection, interest on such borrowed money shall be treated as accruing from day to day.'',

and

(*b*) in section 248A (inserted by the Finance (No. 2) Act, 1998) by inserting the following after subsection (2):

''(3) This section shall not apply or have effect in relation to interest referred to in subsection (2) which

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accrues on or after 1 January 2002 and, for the purposes of this subsection, such interest shall be treated as accruing from day to day.''.

Amendment of Chapter 8 (taxation of rents and certain other payments) of Part 4 of Principal Act.

18.—(1) Chapter 8 of Part 4 of the Principal Act is amended by inserting the following after section 98:

''Taxation of reverse premiums.

98A.—(1) (*a*) In this section—

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

'first relevant chargeable period' means—

(*a*) the chargeable period in which a relevant transaction is entered into, or

(*b*) if a relevant transaction is entered into—

(i) by a person receiving a reverse premium, and

(ii) for the purposes of a trade or profession which that person is about to carry on,

the chargeable period in which the person commences to carry on the trade or profession;

'relevant arrangements' means a relevant transaction and any arrangements entered into in connection with it, whether before, at the same time or after it;

'relevant transaction' means a transaction under which a person is granted an estate or interest in, or a right in or over, land;

'reverse premium' means a payment or other benefit received by a person by way of inducement in connection with a relevant transaction being entered into by that person or by a person connected with that person;

'sale and lease-back arrangement' means an arrangement under which a person disposes of the full estate or interest held by that person in land to another person

and the terms subject to which the disposal is made provide for the grant of a lease of an interest in or a right in or over the land concerned to the person by that other person.

(*b*) For the purposes of this section persons are connected with each other if they are connected within the meaning of section 10 at any time during the chargeable period or periods when the relevant arrangements are entered into.

(2) A reverse premium shall, for the purposes of the Tax Acts, be regarded as a receipt of a revenue nature.

(3) Subject to subsections (4) and (6), the amount or value of a reverse premium shall be treated as if it were an amount of rent.

(4) Where a relevant transaction is entered into—

(*a*) by a person receiving a reverse premium, and

(*b*) for the purposes of a trade or profession carried on or to be carried on by that person,

the amount or value of the reverse premium shall be taken into account in computing the profits or gains of that trade or profession under Case I or II of Schedule D, as the case may be, as if it were a receipt of that trade or profession.

(5) Where—

(*a*) two or more of the persons who enter into relevant arrangements are connected with each other, and

(*b*) the terms of those arrangements are not such as would reasonably have been expected if those persons had been dealing at arm's length,

the whole of the amount or value of the reverse premium shall, for the purposes of subsections (3) and (4) be treated as accruing in the first relevant chargeable period.

(6) Where a reverse premium is received by an assurance company (within the meaning of section 706) carrying on life business (within the meaning of section 706) in respect of which it is chargeable to tax otherwise than in accordance with the rules applicable to Case I of Schedule D, the amount or value of the reverse premium shall

be deducted from the amount treated as the company's expenses of management for the chargeable period in which the reverse premium is received.

(7) This section does not apply to a payment or benefit—

(*a*) received by an individual in connection with a relevant transaction and the transaction relates to the grant of an estate or interest in, or a right in or over premises occupied or to be occupied by that individual as his or her only or main residence,

(*b*) to the extent that it is consideration for the transfer of an estate or interest in land which constitutes the sale in a sale and lease-back arrangement where the terms of that arrangement at the time the arrangement is entered into are on bona fide commercial terms, or

(*c*) to the extent that, apart from this section, it is taken into account in computing the profits or gains of a trade or profession under Case I or II of Schedule D, as the case may be, as a receipt of that trade or profession.''.

(2) This section applies as on and from 7 June 2001 in respect of a reverse premium received on or after that date.

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

19.—(1) Section 246 of the Principal Act is amended—

(*a*) in subsection (3), by inserting the following after paragraph (*b*):

''(*bb*) interest paid in the State by a company to another company, being a company to which paragraph (*a*) of subsection (5) applies, for so long as that other company is a company to which that paragraph applies,'',

and

(*b*) by inserting the following after subsection (4):

''(5) (*a*) This paragraph shall apply to a company—

(i) which advances money in the ordinary course of a trade which includes the lending of money,

(ii) in whose hands any interest payable in respect of money so advanced is taken into account in computing the trading income of the company, and

(iii) which—

(I) has notified in writing the appropriate inspector to whom the company makes the return referred to in section 951 that it meets the requirements of subparagraphs (i) and (ii), and

(II) (A) has notified the first company referred to in subsection (3)(*bb*) in writing that it is a company which meets those requirements and that it has made the notification referred to in subparagraph (iii)(I), and

(B) has provided the first company referred to in subsection (3)(*bb*) with its tax reference number (within the meaning of section 885).

(*b*) A company which is no longer a company to which paragraph (*a*) applies shall, upon that paragraph ceasing to apply to it, immediately notify in writing the inspector referred to in subparagraph (iii)(I) of paragraph (*a*) and the company referred to in subparagraph (iii)(II) accordingly.''.

(2) This section applies as respects interest paid on or after the date of the passing of the *Finance Act, 2002*.

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

20.—(1) Chapter 4 of Part 8 of the Principal Act is amended—

(*a*) in section 256(1), by substituting—

(i) the following for subparagraph (ii) of paragraph (*f*) of the definition of ''relevant deposit'':

''(ii) in respect of which the company or pension scheme which is the beneficial owner of the interest has provided the relevant deposit taker with that person's tax reference number (within the meaning of section 885) or where, in the case of a pension scheme, there is no such number, with the number assigned by the Revenue Commissioners to the employer to whom that pension scheme relates,'',

and

(ii) the following for subparagraph (ii) of paragraph (*h*) of the definition of ''relevant deposit'':

''(ii) in respect of which the beneficial owner of the interest has provided the relevant deposit taker with the reference number assigned to that person by the Revenue Commissioners in recognition of that person's entitlement to exemption from

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tax under section 207 and known as the charity (CHY) number;'',

(*b*) by substituting the following for section 265:

''Deposits of companies and pensions schemes.

265.—Where a return is required to be made by a relevant deposit taker under section 891 in respect of interest on a deposit which is a deposit of a kind referred to in paragraph (*f*) of the definition of 'relevant deposit' in section 256, that return shall, in addition to the matters which shall be included on the return by virtue of section 891, include the tax reference number (within the meaning of section 885) of the person beneficially entitled to the interest and where, in the case of a pension scheme, there is no such number, with the number assigned by the Revenue Commissioners to the employer to whom the pension scheme relates.'',

and

(*c*) by substituting the following for section 266:

''Deposits of charities.

266.—Where a return is required to be made by a relevant deposit taker under section 891 in respect of interest on a deposit which is a deposit of a kind referred to in paragraph (*h*) of the definition of 'relevant deposit' in section 256, that return shall, in addition to the matters which shall be included on that return by virtue of section 891, include the reference number assigned to that person by the Revenue Commissioners in recognition of that person's entitlement to exemption from tax under section 207 and known as the charity (CHY) number.''.

(2) *Subsection (1)* applies as respects deposits made on or after the date of the passing of this Act.

Amendment of Part 8 (annual payments, charges and interest) of Principal Act.

21.—Part 8 of the Principal Act is amended—

(*a*) in section 256(1)—

(i) in paragraph (ii) of the definition of ''special term account'', by substituting ''taker;'' for ''taker.'', and

(ii) by inserting the following after the definition of ''special term account'':

'''special term share account' has the same meaning as in section 267A.'',

(*b*) in section 261A—

(i) by substituting the following for subsections (2) and (3): Pt.1 S.21

''(2) Interest paid in a year of assessment in respect of a relevant deposit held in a medium term account shall—

(*a*) be relevant interest only to the extent that such interest exceeds €480, and

(*b*) as respects the first €480 of such interest, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.

(3) Interest paid in a year of assessment in respect of a relevant deposit held in a long term account shall—

(*a*) be relevant interest only to the extent that such interest exceeds €635, and

(*b*) as respects the first €635 of such interest, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.'',

and

(ii) by substituting the following for subsection (5):

''(5) Where an election is made in accordance with subsection (4), interest paid in a year of assessment which commences on or after the date the election is made shall—

(*a*) be relevant interest only to the extent that such interest exceeds €635, and

(*b*) as respects the first €635 of such interest, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.'',

(*c*) in section 264A—

(i) in subsection (1), by substituting the following for paragraph (*j*):

''(*j*) an individual shall not simultaneously hold whether solely or jointly—

(I) a special term share account, or

(II) subject to paragraph (*k*), another special term account;'',

and

(ii) in subsection (2)(*a*), by deleting the words ''is payable'',

(*d*) in section 267A—

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(i) in subsection (1), by inserting the following after the definition of ''special share account'':

'''special term account' has the same meaning as in section 256(1);'',

and

(ii) by inserting the following after subsection (1):

''(2) For the purposes of this Chapter the amount of any dividend credited to a member's account shall be treated as if it were a dividend paid, and references in this Chapter to any dividend paid shall be construed accordingly.'',

(*e*) in section 267C—

(i) by substituting the following for subsections (1) and (2):

''(1) The value of the dividend paid in a year of assessment on shares held in a medium term share account shall—

(*a*) be treated as an amount of relevant interest paid in that year of assessment only to the extent that such value exceeds €480, and

(*b*) as respects the first €480 of such value, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.

(2) The value of the dividend paid in a year of assessment on shares held in a long term share account shall—

(*a*) be treated as an amount of relevant interest paid in that year of assessment only to the extent that such value exceeds €635, and

(*b*) as respects the first €635 of such value, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.'',

and

(ii) by substituting the following for subsection (4):

''(4) Where an election is made in accordance with subsection (3), the value of the dividend paid on shares in a year of assessment which commences on or after the date the election is made shall—

(*a*) be treated as an amount of relevant interest paid in that year of assessment only to the extent that such value exceeds €635, and

(*b*) as respects the first €635 of such value, be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.'',

and

(*f*) in section 267D—

(i) in subsection (1), by substituting the following for paragraph (*j*):

''(*j*) a member shall not simultaneously hold whether solely or jointly—

(I) a special term account, or

(II) subject to paragraph (*k*), another special term share account;'',

and

(ii) in subsection (2)(*a*), by deleting the words ''is payable''.

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

22.—(1) Section 268 of the Principal Act is amended—

(*a*) in subsection (11), by substituting ''grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State'' for ''grant assistance from the State or from any other person'', and

(*b*) in subsection (12)—

(i) in paragraph (*a*), by deleting ''and'', and

(ii) by substituting the following for paragraph (*b*):

''(*b*) that the expenditure concerned falls within the meaning of 'initial investment' contained in point 4.4 of the 'Guidelines on National Regional Aid'[1] prepared by the Commission of the European Communities,

(*c*) that, in the case of a building or structure provided for the purposes of a project which is subject to the notification requirements of the 'Multisectoral framework on regional aid for large investment projects'[2] prepared by the Commission of the European Communities, approval of the potential capital allowances involved has been received from that Commission by the Minister for Finance, or by such other Minister of the Government, agency or body as may be nominated for that purpose by the Minister for Finance, and

[1] O.J. No. C 74, 10.3.1998, p. 9
[2] O.J. No. C 107, 7.4.1998, p. 7

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(*d*) that such person has undertaken to furnish to the Minister for Finance, or to such other Minister of the Government, agency or body as may be nominated for that purpose by the Minister for Finance, upon request in writing by the Minister concerned or that agency or body, such further information as may be necessary to enable compliance with the reporting requirements of—

(i) the Regulation referred to in paragraph (*a*) or the Multisectoral framework referred to in paragraph (*c*),

(ii) 'Community guidelines on State aid for rescuing and restructuring firms in difficulty'[1] prepared by the Commission of the European Communities, or

(iii) any other European Communities Regulation or Directive under the European Communities Treaty governing the granting of State aid in specific sectors.''.

(2) This section applies as respects expenditure incurred on or after 1 January 2002.

Amendment of Part 10 (income tax and corporation tax: reliefs for renewal and improvement of certain urban areas, certain resort areas and certain islands) of Principal Act.

23.—(1) Part 10 of the Principal Act is amended—

(*a*) in section 344(1), in paragraph (*c*) of the definition of ''qualifying period'', by substituting—

(i) ''31 December 2004'' for ''31 December 2002'',

(ii) ''31 December 2003'' for ''31 December 2001'', and

(iii) ''30 September 2003'' for ''30 September 2001'',

(*b*) in section 372A—

(i) in subsection (1)—

(I) by substituting the following for paragraph (*a*) of the definition of ''qualifying period'':

''(*a*) subject to section 372B and in relation to a qualifying area, the period commencing on 1 August 1998 and ending on—

(i) 31 December 2002, or

(ii) where subsection (1A) applies, 31 December 2004,

and'',

and

[1] O.J. No. C 288, 9.10.1999, p. 2

(II) by substituting the following for the definition of ''relevant local authority'': Pt.1 S.23

''' 'relevant local authority' means—

(*a*) in relation to a qualifying area, the county council or the city council or the borough council or, where appropriate, the town council, within the meaning of the Local Government Act, 2001, in whose functional area the area is situated, and

(*b*) in relation to a qualifying street, in respect of the cities of Cork, Dublin, Galway, Limerick or Waterford, the city council of the city in whose functional area the street is situated;'',

and

(ii) by inserting the following after subsection (1):

''(1A) (*a*) This subsection shall apply where the relevant local authority gives a certificate in writing on or before 30 April 2003, to the person constructing or refurbishing a building or structure or part of a building or structure, the site of which is wholly within a qualifying area, stating that it is satisfied that not less than 15 per cent of the total cost of constructing or refurbishing the building or structure or the part of the building or structure, as the case may be, and the site thereof had been incurred on or before 31 December 2002.

(*b*) In considering whether to give a certificate referred to in paragraph (*a*), the relevant local authority shall have regard only to guidelines issued by the Department of the Environment and Local Government in relation to the giving of such certificates.'',

(*c*) in section 372B(1)—

(i) by substituting the following for paragraph (*c*):

''(*c*) as respects any such area so described in the order and in so far as this Chapter is concerned, the definition of 'qualifying period' in section 372A shall be construed as a reference to such period as shall be specified in the order in relation to that area; but no such period specified in the order shall commence before 1 August 1998 or end after—

(i) 31 December 2002, or

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(ii) where section 372A(1A) applies, 31 December 2004,'',

and

(ii) by inserting the following after paragraph (*c*):

''(*d*) as respects any such area so described in the order and in so far as Chapter 11 of this Part is concerned, the definition of 'qualifying period' in section 372AL shall be construed as a reference to such period as shall be specified in the order in relation to that area; but no such period specified in the order shall commence before 1 August 1998 or end after—

(i) 31 December 2002, or

(ii) where section 372AL(2) applies, 31 December 2004.'',

(*d*) in section 372L, in paragraph (*a*) of the definition of ''qualifying period'', by substituting ''31 December 2004,'' for ''31 December 2002, and'', and

(*e*) in Chapter 9—

(i) in section 372U(1)—

(I) by inserting the following after the definition of ''park and ride facility'':

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

(II) by substituting the following for the definition of ''qualifying period'':

'' 'qualifying period' means the period commencing on 1 July 1999 and ending on 30 June 2004;'',

(ii) in section 372V by inserting the following after subsection (2):

''(2A) This section shall not apply in respect of expenditure incurred on the construction or refurbishment of a qualifying park and ride facility—

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

(*b*) either the person referred to in paragraph (*a*) or a person connected (within the meaning of section 10) with that person incurred the expenditure on the construction or refurbishment of the qualifying park and ride facility concerned.'',

and

(iii) in section 372W by inserting the following after subsection (3):

''(3A) This section shall not apply in respect of expenditure incurred on the construction or refurbishment of a qualifying premises—

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

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

(2) (*a*) *Paragraphs (b), (c)(i)* and *(d)* of *subsection (1)* shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different provisions.

(*b*) *Paragraph (e)* of *subsection (1)* shall apply as respects expenditure incurred on or after 7 February 2002.

Codification of reliefs for lessors and owner-occupiers in respect of certain residential accommodation.

24.—(1) The Principal Act is amended in the manner and to the extent specified in *Part 1* of *Schedule 2*.

(2) The Urban Renewal Act, 1998 and the Town Renewal Act, 2000 are amended in the manner and to the extent specified in *Part 2* of *Schedule 2*.

(3) The following provisions of the Principal Act are repealed:

(*a*) sections 325 to 329,

(*b*) sections 334 to 338,

(*c*) sections 346 to 350,

(*d*) sections 356 to 359,

(*e*) Chapters 5 and 6 of Part 10, that is, sections 360 to 372,

(*f*) sections 372E to 372J (inserted by the Finance Act, 1998),

(*g*) sections 372O to 372R and 372S (inserted by the Finance Act, 1998) and section 372RA (inserted by the Finance Act, 1999),

(*h*) sections 372X to 372Z (inserted by the Finance Act, 1999),

(*i*) sections 372AE to 372AI (inserted by the Finance Act, 2000),

(*j*) Part 11A, that is, sections 380A to 380F (inserted by the Finance Act, 1999), and

(*k*) Part 11B, that is, sections 380G to 380J (inserted by the Finance Act, 2001).

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Designation of certain areas for rented residential reliefs.

25.—(1) The Urban Renewal Act, 1998 is amended in Part II—

(*a*) by inserting the following after section 9:

"Designation of certain areas for rented residential reliefs.

9A.—Where, under section 9, the Minister has recommended to the Minister for Finance that he or she make an order under section 372B(1) of the Taxes Consolidation Act, 1997 that a part or parts (in this section referred to as the 'specified part or parts'), or the whole, of an area to which an integrated area plan relates ought to be a qualifying area for the purposes of section 372AR of that Act, the Minister may further recommend to the Minister for Finance that he or she make an order under the said section 372B(1) that the specified part or parts or any other part or parts of the area concerned ought to be a qualifying area for the purposes of section 372AP of the Taxes Consolidation Act, 1997 in so far as that section relates to one or more of the following:

(*a*) expenditure on the construction of a house,

(*b*) conversion expenditure in relation to a house, and

(*c*) refurbishment expenditure in relation to a house,

notwithstanding that the integrated area plan does not contain or is not accompanied by a recommendation that the specified part or parts, or the other part or parts, of the area to which the plan relates ought to be a qualifying area for the purposes of the said section 372AP in so far as that section relates to one or more of the matters referred to in paragraphs (*a*), (*b*) and (*c*) of this section.",

and

(*b*) in section 11, by inserting the following after subsection (1):

"(1A) For the purposes of subsection (1), where the Minister has, under section 9A, recommended to the Minister for Finance that he or she make an order under section 372B(1) of the Taxes Consolidation Act, 1997 that a part of an area to which an integrated area plan relates ought to be a qualifying area for the purposes of section 372AP of that Act, then expenditure referred to in paragraph (*a*), (*b*) or (*c*), as the case may be, of section 9A which is incurred in relation to a house, the site of which is wholly within that part, may be treated as consistent with the objectives of that plan, notwithstanding

that the plan did not contain or was not accompanied by a recommendation that such part ought to be a qualifying area for the purposes of the said section 372AP in so far as that section relates to one or more of the matters referred to in paragraphs (*a*), (*b*) and (*c*) of section 9A.''.

(2) The Town Renewal Act, 2000 is amended—

(*a*) by inserting the following after section 6:

''Designation of certain areas for rented residential reliefs.

6A.—Where, under section 6, the Minister has recommended to the Minister for Finance that he or she make an order under section 372AB(1) of the Act of 1997 that a part or parts of an area to which a town renewal plan relates ought to be a qualifying area for the purposes of section 372AR of that Act, the Minister may further recommend to the Minister for Finance that he or she make an order under the said section 372AB(1) that that part or those parts of the area concerned ought to be a qualifying area for the purposes of section 372AP of the Act of 1997 in so far as that section relates to one or more of the following:

(*a*) expenditure on the construction of a house,

(*b*) conversion expenditure in relation to a house, and

(*c*) refurbishment expenditure in relation to a house,

notwithstanding that the town renewal plan does not contain or is not accompanied by a recommendation or advice that that part or those parts of the area to which the plan relates ought to be a qualifying area for the purposes of the said section 372AP in so far as that section relates to one or more of the matters referred to in paragraphs (*a*), (*b*) and (*c*) of this section.'',

and

(*b*) in section 7, by inserting the following after subsection (1):

''(1A) For the purposes of subsection (1), where the Minister has, under section 6A, recommended to the Minister for Finance that he or she make an order under section 372AB(1) (inserted by the Finance Act, 2000) of the Act of 1997 that a part of an area to which a town renewal plan relates ought to be a qualifying area for the purposes of section 372AP of that Act, then expenditure referred to in paragraph (*a*), (*b*) or (*c*), as the case may be, of section 6A which is incurred in relation to a house,

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the site of which is wholly within that part, may be treated as consistent with the objectives of that plan, notwithstanding that the plan did not contain or was not accompanied by a recommendation that such part ought to be a qualifying area for the purposes of the said section 372AP in so far as that section relates to one or more of the matters referred to in paragraphs (*a*), (*b*) and (*c*) of section 6A.''.

(3) *Subsections (1)* and *(2)* apply as respects expenditure incurred on or in relation to a house, where such expenditure is incurred—

(*a*) on or after 5 December 2001, or

(*b*) where subsection (9) or (10) of section 372AP (inserted by this Act) of the Principal Act applies, prior to 5 December 2001, but only if—

(i) a contract for the purchase of the house had not been evidenced in writing by any person prior to that date, but

(ii) a contract for the purchase of the house is evidenced in writing on or before 1 September 2002.

Denial of capital allowances where grant or other assistance received.

26.—(1) The Principal Act is amended—

(*a*) in section 372K(1), in paragraph (*aa*), by substituting ''grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State'' for ''grant assistance from the State or from any other person'',

(*b*) in section 372T(1), in paragraph (*aa*), by substituting ''grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State'' for ''grant assistance from the State or from any other person'', and

(*c*) in section 372AJ(1), in paragraph (*aa*), by substituting ''grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State'' for ''grant assistance from the State or from any other person''.

(2) This section applies as respects expenditure incurred on or after 7 February 2002.

Amendment of section 372AJ (non-application of relief in certain cases and provision against double relief) of Principal Act.

27.—(1) Section 372AJ of the Principal Act is amended in subsection (1) by deleting paragraph (*ac*).

(2) This section shall be deemed to have applied as on and from 6 April 2001.

Amendment of Part 11 (capital allowances and expenses for certain road vehicles) of Principal Act.

28.—(1) Part 11 of the Principal Act is amended—

(*a*) in section 373(2)—

(i) by substituting ''January 2001;'' for ''January 2001.'' in paragraph (*m*)(ii), and

(ii) by inserting the following after paragraph (*m*):

''(*n*) €22,000, where the expenditure was incurred—

(i) in an accounting period ending on or after 1 January 2002, or

(ii) in a basis period for a year of assessment, where that basis period ends on or after 1 January 2002.'',

(*b*) in section 374(1), by substituting ''the purposes of that section'' for ''the purpose of subsection (3) of that section'', and

(*c*) by deleting section 376.

(2) (*a*) *Subsection (1)(b)* applies as respects capital expenditure incurred on or after 1 January 2001.

(*b*) *Subsection (1)(c)* applies as respects expenditure incurred—

(i) in an accounting period ending on or after 1 January 2002, or

(ii) in a basis period for a year of assessment, where that basis period ends on or after 1 January 2002.

Amendment of section 668 (compulsory disposals of livestock) of Principal Act.

29.—(1) Section 668 of the Principal Act is amended—

(*a*) in subsection (3)—

(i) in paragraph (*a*), by substituting ''paragraph (*b*) and subsection (3A)'' for ''paragraph (*b*)'' and by substituting ''the 4 immediately succeeding accounting periods'' for ''the 2 immediately succeeding accounting periods'', and

(ii) in paragraph (*b*), by substituting ''Notwithstanding paragraph (*a*) but subject to subsection (3A)'' for ''Notwithstanding paragraph (*a*)'' and by substituting ''the 3 immediately succeeding accounting periods'' for ''the immediately succeeding accounting period'',

(*b*) by inserting the following after subsection (3):

''(3A) Where a trade of farming is permanently discontinued, tax shall be charged under Case IV of Schedule D for the chargeable period in which such discontinuation takes place in respect of the amount of the excess which would, but for such discontinuance, be treated by virtue of subsection (3) as arising in an accounting period or accounting periods ending after such discontinuance.'',

(*c*) by substituting the following for subsection (4):

''(4) Subject to subsection (4A), where, not later than the end of the period over which the excess is treated as arising under subsection (3), the person incurs or intends to incur expenditure on the replacement of stock to which this section applies in an amount not less than the relevant amount, then the person shall, in substitution for

any deduction to which the person might otherwise be entitled under section 666 as a result of incurring an amount of expenditure equal to the relevant amount, be deemed to be entitled to a deduction under that section—

(*a*) where subsection (3)(*a*) applies, for each of the 4 immediately succeeding accounting periods referred to in that subsection, and

(*b*) where subsection (3)(*b*) applies, for the accounting period in which the excess arises and each of the 3 immediately succeeding accounting periods referred to in that subsection,

and the amount of that deduction shall be an amount equal to the amount treated as arising in each accounting period under subsection (3)(*a*) or (3)(*b*), as the case may be, and section 666 shall apply with any necessary modifications in order to give effect to this subsection.

(4A) Where it subsequently transpires that the expenditure actually incurred, on the replacement of stock to which this section applies, by the end of the period over which the excess is treated as arising under subsection (3), was less than the relevant amount, then—

(*a*) the aggregate deduction to which the person is deemed by subsection (4) to be entitled under section 666 in respect of the 4 accounting periods referred to in paragraph (*a*) or (*b*), as the case may be, of that subsection shall be reduced to an amount that bears the same proportion to that aggregate deduction as the expenditure actually incurred in those 4 accounting periods bears to the relevant amount, and

(*b*) the reduction to be made in accordance with paragraph (*a*) shall, as far as possible, be made in a later accounting period in priority to an earlier accounting period.'',

and

(*d*) by inserting the following after subsection (5):

''(6) Where—

(*a*) by virtue of the operation of section 65, the profits or gains of both the year of assessment 2001 and the year of assessment 2002 are computed on the basis of an accounting period of one year ending in the period from 1 January 2002 to 5 April 2002, and

(*b*) an instalment referred to in subsection (3) is treated as arising in that accounting period,

then, notwithstanding any other provision of the Tax Acts—

(i) an amount equal to 74 per cent of that instalment shall be taken to be part of the

profits or gains of the trade of farming for the year of assessment 2001, and

(ii) an amount equal to 26 per cent of that instalment shall be taken to be part of the profits or gains of the trade of farming for the year of assessment 2002.

(7) Where, by virtue of subsection (4), a person is deemed to be entitled to a deduction under section 666 in respect of the accounting period referred to in subsection (6), then—

(*a*) 74 per cent of such deduction shall be granted for the year of assessment 2001, and

(*b*) 26 per cent of such deduction shall be granted for the year of assessment 2002.''.

(2) (*a*) *Paragraphs (a), (b)* and *(c)* of *subsection (1)* apply as respects disposals made on or after 21 February 2001.

(*b*) *Paragraph (d)* of *subsection (1)* is deemed to have applied as on and from 6 April 2001.

Amendment of section 669A (interpretation) of Principal Act.

30.—(1) Section 669A of the Principal Act is amended—

(*a*) by deleting the definition of ''lessee'', and

(*b*) by substituting the following for paragraph (*b*) of the definition of ''qualifying quota'':

''(*b*) any other milk quota purchased on or after 1 April 2000;''.

(2) This section shall be deemed to have applied as on and from 6 April 2000.

Capital allowances in respect of machinery or plant.

31.—(1) Section 284 of the Principal Act is amended—

(*a*) in subsection (2)—

(i) in paragraph (*a*), by substituting ''paragraphs (*aa*) and (*ab*)'' for ''paragraph (*aa*)'',

(ii) by inserting the following after paragraph (*aa*):

''(*ab*) Where for any chargeable period ending on or after 1 January 2002 a wear and tear allowance would be due to be made to a person in respect of machinery or plant in accordance with paragraph (*a*), the person may elect that the amount of the wear and tear allowance to be made for that chargeable period and any subsequent chargeable period in respect of each and every item of the machinery or plant concerned shall, subject to subsection (4), instead of being the amount referred to in paragraph (*a*), be an amount equal to—

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(i) where, apart from this paragraph, the allowance would be made in accordance with paragraph (*a*)(i), 20 per cent of the amount of the capital expenditure incurred on the provision of that machinery or plant which is still unallowed as at the commencement of the first-mentioned chargeable period, and

(ii) where, apart from this paragraph, the allowance would be made in accordance with paragraph (*a*)(ii), 20 per cent of the value of that machinery or plant at the commencement of the first-mentioned chargeable period.

(*ac*) An election under paragraph (*ab*) shall be irrevocable, and shall be included—

(i) where such an election is made by a chargeable person within the meaning of Part 41, in the return required to be made by that person under section 951 for the first chargeable period, and

(ii) where such an election is made by any other person, in the annual statement of profits or gains required to be delivered by that person under the Income Tax Acts, for the first year of assessment,

for which a wear and tear allowance in respect of machinery or plant is to be made in accordance with that paragraph.'',

and

(iii) in paragraph (*b*), by substituting '', the amount specified in paragraph (*aa*) or, as the case may be, the amount specified in subparagraph (i) or (ii) of paragraph (*ab*)'' for ''or the amount specified in paragraph (*aa*), as the case may be,'',

and

(*b*) in subsection (3), by substituting ''For the purposes of paragraphs (*a*)(ii) and (*ab*)(ii) of subsection (2), the value at the commencement of a chargeable period'' for ''For the purposes of subsection (2)(*a*)(ii), the value at the commencement of the chargeable period''.

(2) Section 288 of the Principal Act is amended by inserting the following after subsection (3A):

''(3B) Notwithstanding subsection (3), a balancing charge shall not be made where the amount of the sale, insurance, salvage or compensation moneys received by the person in question in respect of the machinery or plant is less than €2,000; but

this subsection shall not apply in the case of the sale or other disposal of the machinery or plant to a connected person.''. Pt.1 S.31

Capital allowances for certain hospitals.

32.—Section 268 of the Principal Act is amended—

(*a*) by inserting the following after subsection (1) (as amended by this Act):

''(1A) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(*j*) is held by—

(*a*) a company,

(*b*) the trustees of a trust,

(*c*) an individual who is involved in the operation or management of the qualifying hospital concerned either as an employee or director or in any other capacity, or

(*d*) a property developer (within the meaning of section 372A), in the case where either such property developer or a person connected with such property developer incurred the capital expenditure on the construction of that building or structure,

then, notwithstanding that subsection, that building or structure shall not be regarded as an industrial building or structure for the purposes of this Part, irrespective of whether that relevant interest is held by the person referred to in paragraph (*a*), (*b*), (*c*) or (*d*), as the case may be, in a sole capacity or jointly or in partnership with another person or persons.'',

and

(*b*) in the definition of ''qualifying hospital'' in subsection (2A) (inserted by the Finance Act, 2001)—

(i) by deleting paragraph (*b*),

(ii) by substituting ''70 in-patient beds'' for ''100 in-patient beds'' in paragraph (*d*),

(iii) by substituting ''gives, during the period of 7 years referred to in section 272(4)(*h*), an annual certificate in writing'' for ''gives a certificate in writing'' in paragraph (*h*), and

(iv) by substituting the following for ''but does not include any part of the hospital which consists of consultants' rooms or offices.'':

''and—

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(I) includes any part of the hospital which consists of rooms used exclusively for the assessment or treatment of patients, but

(II) does not include any part of the hospital which consists of consultants' rooms or offices.''.

Registered nursing homes: capital allowances for associated housing units for the aged or infirm.

33.—Section 268 of the Principal Act is amended—

(*a*) in subsection (1)(*g*), by inserting ''(in this section referred to as a 'registered nursing home')'' after ''nursing home'' where it first occurs,

(*b*) by inserting the following after subsection (3):

''(3A) In this section 'qualifying residential unit' means a house which—

(*a*) is constructed on the site of, or on a site which is immediately adjacent to the site of, a registered nursing home,

(*b*) is—

(i) a single storey house, or

(ii) a house that is comprised in a two storey building,

where—

(I) the house is, or (as the case may be) the house and the building in which it is comprised are, designed and constructed to meet the needs of persons with disabilities, including in particular the needs of persons who are confined to wheelchairs, and

(II) the house consists of 1 or 2 bedrooms, a kitchen, a living room, bath or shower facilities, toilet facilities and a nurse call system linked to the registered nursing home,

(*c*) is comprised in a development of not less than 20 qualifying residential units where—

(i) that development also includes a day-care centre,

(ii) those units are operated or managed by the registered nursing home and an on-site caretaker is provided,

(iii) back-up medical care, including nursing care, is provided by the registered nursing home to the occupants of those units when required by those occupants,

(iv) not less than 20 per cent of those units are made available for renting to persons who are eligible for a rent subsidy from the health board in whose functional area the units are situated, subject to service requirements to be specified by that health board in advance and to the condition that nothing

in this subparagraph shall require that health board to take up all or any of the units so made available, and

(v) the rent to be charged in respect of any such unit made available in accordance with subparagraph (iv) is not more than 90 per cent of the rent which would be charged if that unit were rented to a person who is not in receipt of a subsidy referred to in that subparagraph,

and

(*d*) is leased to a person or persons who has or have been certified, by a person who is registered in the register established under section 26 of the Medical Practitioners Act, 1978, as requiring such accommodation by reason of old age or infirmity.

(3B) For the purposes of this Part but subject to subsection (3C), as respects capital expenditure incurred in the period of 5 years commencing on the date of the passing of the *Finance Act, 2002*, a building or structure in use as a qualifying residential unit shall be deemed to be a building or structure in use for the purposes of a trade referred to in subsection (1)(*g*).

(3C) Subsection (3B) shall not apply in respect of expenditure incurred on the construction of a qualifying residential unit where any part of that expenditure has been or is to be met, directly or indirectly, by grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State.'',

and

(*c*) in subsection (7)(*b*), by inserting ''or a qualifying residential unit'' after ''other than a holiday cottage referred to in subsection (3)'' in both places where it occurs.

Capital allowances for certain sports injuries clinics.

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

(*a*) in section 268—

(i) in subsection (1)—

(I) by deleting ''or'' where it last occurs in paragraph (*i*) and by substituting ''qualifying hospital, or'' for ''qualifying hospital,'' in paragraph (*j*), and

(II) by inserting the following after paragraph (*j*):

''(*k*) for the purposes of a trade which consists of the operation or management of a qualifying sports injuries clinic,'',

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(ii) by inserting the following after subsection (1A) (inserted by this Act):

''(1B) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(*k*) is held by—

(*a*) a company,

(*b*) the trustees of a trust,

(*c*) an individual who is involved in the operation or management of the qualifying sports injuries clinic concerned either as an employee or director or in any other capacity, or

(*d*) a property developer (within the meaning of section 372A), in the case where either such property developer or a person connected with such property developer incurred the capital expenditure on the construction of that building or structure,

then, notwithstanding that subsection, that building or structure shall not be regarded as an industrial building or structure for the purposes of this Part, irrespective of whether that relevant interest is held by the person referred to in paragraph (*a*), (*b*), (*c*) or (*d*), as the case may be, in a sole capacity or jointly or in partnership with another person or persons.'',

(iii) by inserting the following after subsection (2A) (inserted by the Finance Act, 2001):

''(2B) In this section 'qualifying sports injuries clinic' means a medical clinic—

(*a*) which does not (other than by virtue of paragraph (*e*)) provide health care services to a person pursuant to his or her entitlements under Chapter II of Part IV of the Health Act, 1970,

(*b*) in which the sole or main business carried on is the provision, by or under the control of medical or surgical specialists, of health care consisting of the diagnosis, alleviation and treatment of physical injuries sustained by persons in participating, or in training for participation, in athletic games or sports,

(*c*) which has the capacity to provide day-patient, in-patient and out-patient medical and surgical services and in-patient accommodation of not less than 20 beds,

(*d*) which contains an operating theatre or theatres and related on-site diagnostic and therapeutic facilities,

(*e*) which undertakes to the health board in whose functional area it is situated—

(i) to make available annually, for the treatment of persons who have been awaiting day-patient, in-patient or out-patient hospital services as public patients, not less than 20 per cent of its capacity, subject to service requirements to be specified by the health board in advance and to the condition that nothing in this subparagraph shall require the health board to take up all or any part of the capacity made available to the health board by the medical clinic, and

(ii) in relation to the fees to be charged in respect of the treatment afforded to any such person, that such fees shall not be more than 90 per cent of the fees which would be charged in respect of similar treatment afforded to a person who has private medical insurance,

and

(*f*) in respect of which that health board, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives, during the period of 7 years referred to in section 272(4)(*h*), an annual certificate in writing stating that it is satisfied that the medical clinic complies with the conditions mentioned in paragraphs (*a*) to (*e*),

and—

(I) includes any part of the clinic which consists of rooms used exclusively for the assessment or treatment of patients, but

(II) does not include any part of the clinic which consists of consultants' rooms or offices.'',

and

(iv) in subsection (9)—

(I) by deleting ''and'' where it last occurs in paragraph (*f*) and by substituting ''2001, and'' for ''2001.'' in paragraph (*g*), and

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(II) by inserting the following after paragraph (*g*):

"(*h*) by reference to paragraph (*k*), as respects capital expenditure incurred on or after the date of the coming into operation of *section 34* of the *Finance Act, 2002*.",

and

(*b*) by substituting "paragraph (*j*) or (*k*) of section 268(1)" for "section 268(1)(*j*)" in subsections (3)(*h*) and (4)(*h*) of section 272 and in section 274(1)(*b*)(vii).

(2) This section comes into operation on such day as the Minister for Finance may by order appoint.

Amendment of section 843 (capital allowances for buildings used for third level educational purposes) of Principal Act.

35.—Section 843(7) of the Principal Act is amended by substituting "31 December 2004" for "the 31st day of December, 2002".

Amendment of Part 20 (companies' chargeable gains) of Principal Act.

36.—Part 20 of the Principal Act is amended—

(*a*) in section 615 (2)(*b*)(ii) (inserted by the Finance Act, 1999) by substituting "relevant Member State" for "Member State of the European Communities" in both places where it occurs,

(*b*) in section 616—

(i) in subsection (1)(*a*) by substituting "relevant Member State" for "Member State of the European Communities" in both places where it occurs, and

(ii) by inserting the following after subsection (6):

"(7) For the purposes of this Part—

'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA State' means a state which is a contracting party to the EEA Agreement;

'relevant Member State' means—

(*a*) a Member State of the European Communities, or

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

(*c*) in section 621(1) in the definition of "group of companies" (inserted by the Finance Act, 2001) by substituting "relevant Member State" for "Member State of the European Communities",

(*d*) in section 624(5) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and Pt.1 S.36

(*e*) in section 629(1) in the definition of ''group'' by substituting ''relevant Member State'' for ''Member State of the European Communities''.

Amendment of Chapter 5 (group relief) of Part 12 of Principal Act.

37.—Chapter 5 of Part 12 of the Principal Act is amended—

(*a*) in section 410—

(i) in subsection (1)(*a*)—

(I) by inserting the following before the definition of ''tax'' (inserted by the Finance Act, 1999)—

''EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA State' means a state which is a contracting party to the EEA Agreement;

'relevant Member State' means—

(i) a Member State of the European Communities, or

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

(II) in the definition of ''tax'' (inserted by the Finance Act, 1999) by substituting ''relevant Member State'' for ''Member State of the European Communities'',

(ii) in subsection (1)(*b*)—

(I) in subparagraph (i) (inserted by the Finance Act, 1999) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

(II) by substituting the following for subparagraph (ii) (inserted by the Finance Act, 1999):

''(ii) references to a company resident in a relevant Member State shall be construed as references to a company which, by virtue of the law of a relevant Member State, is resident for the purposes of tax in such a relevant Member State.'',

(iii) in subsection (3)(*a*) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

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(iv) in subsection (4)(*a*)(i) by substituting ''relevant Member State'' for ''Member State of the European Communities'',

and

(*b*) in section 411(1)—

(i) in paragraph (*a*)—

(I) by inserting before the definition of ''holding company'' the following:

'' 'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA State' means a state which is a contracting party to the EEA Agreement;'',

(II) by inserting after the definition of ''holding company'' the following:

'' 'relevant Member State' means—

(i) a Member State of the European Communities, or

(ii) not being such a Member State, an EEA State which is a territory with the government of which arrangements having the force of law by virtue of section 826 have been made.'',

and

(III) in the definition of ''tax'' (inserted by the Finance Act, 1999) by substituting ''relevant Member State'' for ''Member State of the European Communities'',

and

(ii) in paragraph (*c*) by substituting ''relevant Member State'' for ''Member State of the European Communities'' in both places where it occurs.

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

38.—Schedule 24 of the Principal Act is amended—

(*a*) in paragraph 1(1)—

(i) by inserting the following before the definition of ''foreign tax'' (inserted by the Finance Act, 1998):

'' 'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA State' means a state which is a contracting party to the EEA Agreement;'',

and

(ii) by inserting the following after the definition of ''foreign tax'' (as so inserted):

'' 'relevant Member State' means—

(*a*) a Member State of the European Communities, or

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

(*b*) in paragraph 9A—

(i) in subparagraph (3A)(*a*)(ii) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

(ii) in subparagraph (3A)(*b*) by substituting ''relevant Member State'' for ''Member State of the European Communities'',

(*c*) in paragraph 9B in subparagraph (1A)—

(i) in clause (*a*)(i) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

(ii) in clause (*b*) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

(*d*) in paragraph 9C in subparagraph (1) by substituting ''relevant Member State'' for ''Member State of the European Communities'' in both places where it occurs.

Application of section 130 (matters to be treated as distributions) of Principal Act.

39.—Section 130 of the Principal Act is amended—

(*a*) in subsection (3)—

(i) in paragraph (*b*) by substituting ''relevant Member State'' for ''Member State of the European Communities'',

(ii) in paragraph (*c*) (inserted by the Finance Act, 1999) by substituting ''relevant Member State'' for ''Member State of the European Communities'', and

(iii) by inserting the following after paragraph (*c*) (inserted by the Finance Act, 1999)—

''(*d*) For the purposes of this subsection and subsection (4)—

'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

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'EEA State' means a state which is a contracting party to the EEA Agreement;

'relevant Member State' means—

(i) a Member State of the European Communities, or

(ii) not being such a Member State, an EEA State which is a territory with the government of which arrangements having the force of law by virtue of section 826 have been made.'',

and

(*b*) in subsection (4)(*c*) by substituting ''relevant Member State'' for ''Member State of the European Communities''.

Life assurance: taxation of personal portfolio life policies.

40.—(1) The Principal Act is amended in Chapter 5 of Part 26—

(*a*) by inserting the following after section 730B:

''Personal portfolio life policy.

730BA.—(1) In this section—

'building society' has the same meaning as in section 256;

'foreign life policy' has the same meaning as in section 730H;

'internal linked fund', in relation to an assurance company, means a fund maintained by the assurance company to which fund the assurance company appropriates certain linked assets and which fund may be subdivided into subdivisions the value of each of which is determined by the assurance company by reference to the value of such linked assets;

'investment undertaking' has the same meaning as in section 739B;

'land' includes an interest in land and also includes shares deriving their value or the greater part of their value directly or indirectly from land other than shares quoted on a recognised stock exchange;

'linked asset', in relation to an assurance company, means an asset of the assurance company which is identified in the records of the assurance company as an asset by reference to the value of which asset the benefits provided for under a life policy are to be determined;

'policyholder' has the same meaning as it has for the purposes of section 730E;

'prices' index' means—

(*a*) the all items consumer price index compiled by the Central Statistics Office,

(*b*) any general index of prices corresponding to such consumer price index and duly published by or on behalf of any state other than the State, or

(*c*) any published index of prices of shares listed on a recognised stock exchange;

'public' means individuals generally, companies generally, or a combination of these, as the case may be;

'units' has the same meaning as in section 739B.

(2) In this Chapter and in Chapter 6 of this Part 'personal portfolio life policy' means, subject to subsection (4), a life policy or a foreign life policy, as the case may be, under whose terms—

(*a*) (i) some or all of the benefits conferred by the policy are or were determined by reference to the value of, or the income from, property of any description (whether or not specified in the policy), or

(ii) some or all of the benefits conferred by the policy are or were determined by reference to fluctuations in, or fluctuations in an index of, the value of property of any description (whether or not specified in the policy),

and

(*b*) some or all of the property or the index may be or was selected by or the selection of some or all of the property or index may be or was influenced by—

(i) the policyholder,

(ii) a person acting on behalf of the policyholder,

(iii) a person connected (within the meaning of section 10) with the policyholder,

(iv) a person connected (within that meaning) with a person acting on behalf of the policyholder,

(v) the policyholder and a person connected (within that meaning) with the policyholder, or

(vi) a person acting on behalf of both the policyholder and a person connected (within that meaning) with the policyholder.

(3) For the purposes of paragraph (*b*) of subsection (2) and without prejudice to the application of that provision, the terms of a life policy or a foreign life policy shall be treated as permitting the selection referred to in that paragraph where—

(*a*) the terms of the policy or any other agreement between any person referred to in that paragraph and the assurance company concerned—

(i) allow the exercise of an option by any person referred to in that paragraph to make the selection referred to in that paragraph,

(ii) give the assurance company discretion to offer any person referred to in that paragraph the right to make the selection referred to in that paragraph, or

(iii) allow any of the persons referred to in that paragraph the right to request, subject to the agreement of the assurance company, a change in the terms of the policy such that the selection referred to in that paragraph may be made by any of those persons,

or

(*b*) the policyholder is unable under the terms of the policy to select any of the property so as to determine the benefits under the policy, but any of the persons referred to in that paragraph has or had the option of

requiring the assurance company to appoint an investment advisor (no matter how such a person is described) in relation to the selection of the property which is to determine the benefits under the policy.

(4) A life policy or a foreign life policy is not a personal portfolio life policy if—

(*a*) (i) the only property which may be or has been selected is—

(I) property which the assurance company concerned has appropriated to an internal linked fund,

(II) property consisting of any of the following—

(A) units in an investment undertaking, or

(B) cash, including cash deposited in a bank account or similar account (including cash deposited in a share account with a building society) except where the acquisition of the cash was made wholly or partly for the purpose of realising a gain from the disposal of the cash, or

(III) property consisting of a combination of the property specified in clauses (I) and (II),

and the property satisfies the condition specified in subsection (5), or

(ii) the only index which may be or has been selected is of a description specified in subsection (6),

and

(*b*) as respects a life policy or a foreign life policy commenced on or

after 5 December 2001 (other than a policy in respect of which the only property which may be selected is property described in paragraph (*a*)(i)(II)(B) or a policy in respect of which marketing or other promotional literature was published before that date) the terms under which the policy is offered meet the requirements of subsection (7).

(5) The condition specified in this subsection is that at the time when the property is or was available to be selected the opportunity to select—

(*a*) in the case of land, that property, and

(*b*) in any other case, property of the same description as the first-mentioned property,

is or was available to the public on terms which provide or provided that the opportunity to select the property is or was available to any person falling within the terms of the opportunity and that opportunity is or was clearly identified to the public, in marketing or other promotional literature published at that time by the assurance company concerned, as available generally to any person falling within the terms of the opportunity.

(6) The description of index specified by this subsection is an index consisting of a prices' index or a combination of prices' indices where at the time the index is or was available to be selected the opportunity to select the same index is or was available to the public on terms which provide or provided that the opportunity to select the index is or was available to any person falling within the terms of the opportunity and that opportunity is or was clearly identified to the public, in marketing or other promotional literature published at that time by the assurance company concerned, as available generally to any person falling within the terms of the opportunity.

(7) The requirements of this subsection are that—

(*a*) the assurance company concerned does not subject any person to any treatment in connection with the opportunity which is different or more burdensome than any treatment to which any

other person is or may be subject, and

(*b*) where the terms of the opportunity referred to in subsection (5) include terms—

(i) which set out the capital requirement of the opportunity and this requirement is identified to the public in the marketing or other promotional material published by the assurance company at the time the property is available to be selected, and

(ii) indicating that 50 per cent or more by value of the property referred to in that subsection is or is to be land,

the amount any one person may invest in the policy shall not represent more than 1 per cent of the capital requirement (exclusive of any borrowings) of the opportunity as so identified.'',

(*b*) in section 730F—

(i) by substituting the following for paragraphs (*a*) and (*b*) of subsection (1):

''(*a*) subject to paragraph (*b*), where the chargeable event falls on or after 1 January 2001, at a rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent (within the meaning of section 4),

(*b*) where, in the case of a personal portfolio life policy, the chargeable event falls on or after 26 September 2001, at a rate determined by the formula—

(S + 23) per cent

where S is the standard rate per cent (within the meaning of section 4), and

(*c*) where the chargeable event falls on or before 31 December 2000, at a rate of 40 per cent.'',

and

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(ii) by inserting the following after subsection (3):

''(4) Where in the period commencing on 26 September 2001 and ending on 5 December 2001 in connection with a chargeable event in relation to a personal portfolio life policy—

(*a*) an assurance company which is entitled to deduct an amount equal to the appropriate tax in accordance with subsection (3)(*a*)(i), or to appropriate and realise sufficient assets to meet the amount of appropriate tax for which the assurance company is liable to account for in accordance with subsection (3)(*a*)(ii), and

(*b*) the assurance company fails to deduct an amount equal to the appropriate tax due or fails to appropriate and realise sufficient assets to account for the amount of appropriate tax due,

then, for the purposes of regulating the time and manner in which any appropriate tax, which has not been accounted for or paid, shall be accounted for and paid, section 730FA shall apply to the exclusion of section 730G (apart from subsection (7)) and section 730GA.'',

(*c*) by inserting the following after section 730F:

''Assessment of appropriate tax where tax not deducted under section 730F.

730FA.—(1) Where section 730F(4)(*b*) applies then, notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, this section shall apply for the purposes of regulating the time and manner in which any appropriate tax which remains to be accounted for and paid in connection with a chargeable event, which happened in the period commencing on 26 September 2001 and ending on 5 December 2001, in relation to a personal portfolio life policy shall be assessed, accounted for and paid.

(2) An assurance company shall for each personal portfolio life policy in respect of which it has not—

(*a*) deducted an amount equal to the amount of appropriate tax, for which the assurance company is liable to account, in accordance with subsection (3)(*a*)(i) of section 730F, or

(*b*) appropriated and realised sufficient assets to meet the amount of appropriate tax, for which the assurance company is liable to account, in accordance with subsection (3)(*a*)(ii) of section 730F,

make and deliver to the inspector to whom it is customary for the assurance company to make a return under section 951 a return on or before 31 December 2001 containing in each case—

(i) the name, address and, if appropriate, the registered office, of the policyholder,

(ii) the amount of the gain arising on the happening of the chargeable event in relation to the policy, including details of all amounts referred to in subsections (3) and (4) of section 730D which are relevant to the determination of the gain arising on the chargeable event in question,

(iii) the amount actually deducted in accordance with section 730F(3)(*a*)(i) or the amount actually realised in accordance with section 730F(3)(*a*)(ii),

(iv) the method of payment of the benefits under the policy,

(v) if payment was made to a person other than the policyholder, details of the name and address of that person, and

(vi) details of the property which is a linked asset in relation to the personal portfolio life policy.

(3) An assurance company which fails to deliver, within the time specified in subsection (2), the return referred to in that subsection or which fails to deliver such a return which is correct may, in addition to any penalty to which it may be liable, be made liable for the payment of any appropriate tax due in respect of a personal portfolio life policy to which that subsection applies which remains unpaid. An inspector may make an assessment on the assurance company to the best of his or her judgement of the appropriate tax so unpaid.

(4) Where, in connection with a chargeable event in relation to a personal portfolio life policy, an assurance company—

(*a*) fails to deduct an amount equal to the appropriate tax which should have been deducted in accordance with subsection (3)(*a*)(i) of section 730F, or

(*b*) fails to appropriate and realise sufficient assets to meet the full amount of appropriate tax for which the assurance company is liable to account for in accordance with subsection (3)(*a*)(ii) of section 730F,

then the policyholder or the person to whom the payment referred to in subsection (2) was made shall be liable for the payment of any appropriate tax due in relation to the personal portfolio life policy which remains unpaid. An inspector may make an assessment on the policyholder or the person concerned to the best of his or her judgement of the appropriate tax so unpaid.

(5) Where an inspector makes an assessment under subsection (3) or (4) it shall not be necessary to set out in the notice of assessment any particulars other than particulars as to the amount of appropriate tax to be paid by the assurance company or the policyholder, as appropriate.

(6) (*a*) An inspector may at any time amend or further amend an assessment made on a person under subsection (3) or (4) by making such alterations in or additions to the assessment as he or she considers necessary and the inspector shall give notice to the person of the assessment so amended or so further amended.

(*b*) After the end of a period of 6 years starting from 31 December 2001, no assessment shall be made under subsection (3) or (4) or no assessment made under either of those subsections shall be amended or further amended.

(7) For the purposes of making an assessment under subsection (3) or (4) or for the purposes of amending or further amending such an assessment an inspector may make such enquiries or take such action within his or her powers as he or she considers necessary—

(*a*) to satisfy himself or herself as to the accuracy or otherwise of the return referred to in subsection (2), or

(*b*) where no such return is made or an incorrect return is made, for

the purposes of ascertaining the information which should have been included in such a return.

(8) Appropriate tax specified in an assessment made under subsection (3) or (4) or in an amended assessment made under subsection (6) shall be due and payable within one month after the issue of the notice of assessment or the amended assessment, as appropriate, subject to any appeal against the assessment.''.

(2) The Principal Act is amended in Chapter 6 of Part 26—

(*a*) by substituting the following for paragraph (*a*) of section 730J:

''(*a*) where the person is not a company, and—

(i) income represented by the payment is correctly included in a return made by the person, then, notwithstanding section 15, the rate of income tax to be charged on the income shall be—

(I) where the payment is a relevant payment, the standard rate (within the meaning of section 3) of income tax in force at the time of the payment, and

(II) where the payment is not a relevant payment and is not made in consideration of the disposal, in whole or in part, of the foreign life policy—

(A) in the case of a foreign life policy which is a personal portfolio life policy, at the rate determined by the formula—

(S + 23) per cent

where S is the standard rate per cent for the year of assessment in which the payment is made, and

(B) in any other case, at the rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent for the year of assessment in which the payment is made,

and

(ii) where the income represented by the payment is not correctly included in a return

made by the person, the income shall be charged to income tax—

(I) in the case of a foreign life policy which is a personal portfolio life policy, at the rate determined by the formula—

(H + 20) per cent

where H is a rate per cent determined in relation to the person by section 15 for the year of assessment in which the payment is made, and

(II) in any other case, at a rate determined in relation to the person by section 15 for the year of assessment in which the payment is made'',

and

(*b*) by substituting the following for the formula in subsection (1) of section 730K:

''(*a*) in the case of a foreign life policy which is a personal portfolio life policy, at the rate determined by the formula—

(S + 23) per cent

where S is the standard rate per cent for the year of assessment in which the payment is made, and

(*b*) in any other case, at the rate determined by the formula—

(S + 3) per cent

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

(3) The Principal Act is amended as on and from 5 December 2001 in section 904C(1) by substituting the following for the definition of ''return'':

'' 'return' means a return under section 730FA or section 730G;''.

(4) The Principal Act is amended as on and from 5 December 2001 in Schedule 29, column 1, by inserting ''section 730FA(2)'' before ''section 730G(2)''.

(5) (*a*) *Paragraph (a)* of *subsection (1)* shall apply as respects—

(i) the happening of a chargeable event in relation to a life policy (within the meaning of Chapter 5 of Part 26), or

(ii) the receipt by a person of a payment in respect of a foreign life policy (within the meaning of Chapter 6 of that Part) or the disposal in whole or in part of a foreign life policy (within that meaning),

on or after 26 September 2001.

(*b*) *Paragraphs (b)* and *(c)* of *subsection (1)* shall apply as respects the happening of a chargeable event in relation to a life policy (within the meaning of Chapter 5 of Part 26) on or after 26 September 2001. Pt.1 S.40

(*c*) *Subsection (2)* shall apply as respects the receipt by a person of a payment in respect of a foreign life policy (within the meaning of Chapter 6 of Part 26) or the disposal in whole or in part of a foreign life policy (within that meaning) on or after 26 September 2001.

Donations to certain sports bodies.

41.—(1) Chapter 36 of the Principal Act is amended by inserting the following section after section 847 (inserted by the Finance Act, 2001):

"847A.—(1) In this section—

'Acts' means—

(*a*) the Tax Acts,

(*b*) the Capital Gains Tax Acts, and

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

and any instruments made thereunder;

'appropriate certificate', in relation to a relevant donation by a donor who is an individual (other than an individual referred to in subsection (9)), means a certificate which is in such form as the Revenue Commissioners may prescribe and which contains—

(*a*) statements to the effect that—

(i) the donation satisfies the requirements of subsection (5), and

(ii) the donor has paid or will pay to the Revenue Commissioners income tax of an amount equal to income tax at the standard rate or the higher rate or partly at the standard rate and partly at the higher rate, as the case may be, for the relevant year of assessment on the grossed up amount of the donation, but not being—

(I) income tax which the donor is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the donor is liable to make to any other person, or

(II) appropriate tax within the meaning of Chapter 4 of Part 8,

(*b*) a statement specifying how much of the grossed up amount referred to in paragraph (*a*)(ii) has been or will be liable to income tax at the standard rate and the higher rate for the relevant year of assessment, and

(*c*) the identifying number, known as the Personal Public Service Number (PPSN) of the donor;

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'approved project' means a project in respect of which the Minister has given a certificate under subsection (4), which certificate has not been revoked under that subsection;

'approved sports body' means a body which is in possession of—

(*a*) a certificate from the Revenue Commissioners stating that in their opinion the body is a body of persons to which section 235 applies, and

(*b*) a valid tax clearance certificate,

but does not include a body to whom the Revenue Commissioners have given a notice under section 235(1);

'Minister' means the Minister for Tourism, Sport and Recreation;

'project', in relation to an approved sports body, means one or more of the following:

(*a*) the purchase, construction or refurbishment of a building or structure, or part of a building or structure, to be used for sporting or recreation activities provided by the approved sports body,

(*b*) the purchase of land to be used by the approved sports body in the provision of sporting or recreation facilities,

(*c*) the purchase of permanently based equipment (excluding personal equipment) for use by the approved sports body in the provision of sporting or recreation facilities,

(*d*) the improvement of the playing pitches, surfaces or facilities of the approved sports body, and

(*e*) the repayment of, or the payment of interest on, money borrowed by the approved sports body on or after 1 May 2002 for any of the purposes mentioned in paragraphs (*a*) to (*d*);

'relevant accounting period', in relation to a relevant donation made by a company, means the accounting period in which that donation is made by the company;

'relevant donation' means a donation which satisfies the requirements of subsection (5) and takes the form of the payment by a person (in this section referred to as the 'donor') of a sum or sums of money amounting to at least €250 to an approved sports body which is made—

(*a*) where the donor is an individual, in a year of assessment, and

(*b*) where the donor is a company, in an accounting period,

but where an accounting period of a company is less than 12 months in length the amount of €250 shall be proportionately reduced;

'relevant year of assessment', in relation to a relevant donation made by an individual, means the year of assessment in which that donation is made by the individual;

'tax clearance certificate' shall be construed in accordance with subsection (3). Pt.1 S.41

(2) For the purposes of this section and in relation to a donation by a donor who is an individual (other than an individual referred to in subsection (9)), references to the grossed up amount are to the amount which after deducting income tax at the standard rate or the higher rate or partly at the standard rate and partly at the higher rate, as the case may be, for the relevant year of assessment leaves the amount of the donation.

(3) (*a*) Where a body which is in compliance with the obligations imposed on it by the Acts in relation to—

(i) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts to the Revenue Commissioners, and

(ii) the delivery of any returns required to be made under the Acts,

applies to the Collector-General in that behalf, the Collector-General shall issue to the body a certificate (in this section referred to as a 'tax clearance certificate') for the purposes of this section stating that the body is in compliance with those obligations.

(*b*) Subsections (5) to (9) of section 1094 shall apply to an application for a tax clearance certificate under this subsection as they apply to an application for a tax clearance certificate under that section.

(4) (*a*) The Minister, on the making of an application by an approved sports body in advance of the undertaking by that body of a project, may give a certificate to that body stating that the project to be undertaken by that body may be treated as an approved project for the purposes of this section.

(*b*) An application under this subsection shall be in such form and contain such information as the Minister may direct.

(*c*) The Minister may, by notice in writing given to the body, revoke the certificate given in respect of a project under paragraph (*a*), and the project shall cease to be an approved project as respects any donations made to the body after the date of the Minister's notice.

(*d*) The Minister shall not give a certificate to any body in respect of a project under paragraph (*a*) if the aggregate cost of the project is, or is estimated to be, in excess of €40,000,000.

(5) A donation shall satisfy the requirements of this subsection if—

(*a*) it is made to the approved sports body for the sole purpose of funding an approved project,

(*b*) it is or will be applied by the approved sports body for that purpose,

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(*c*) apart from this section, it is neither deductible in computing for the purposes of tax the profits or gains of a trade or profession nor an expense of management deductible in computing the total profits of a company,

(*d*) it is not a relevant donation to which section 848A applies,

(*e*) it is not subject to a condition as to repayment,

(*f*) neither the donor nor any person connected with the donor receives, either directly or indirectly, a benefit in consequence of making the donation, including, in particular, a right to membership of the approved sports body or a right to use the facilities of that body,

(*g*) it is not conditional on or associated with, or part of an arrangement involving, the acquisition of property by the approved sports body, otherwise than by way of gift, from the donor or a person connected with the donor, and

(*h*) in the case of a donation made by an individual, the individual—

(i) is resident in the State for the relevant year of assessment,

(ii) has (except in the case of an individual referred to in subsection (9)) given an appropriate certificate in relation to the donation to the approved sports body, and

(iii) has (except in the case of an individual referred to in subsection (9)) paid the tax referred to in such appropriate certificate and is not entitled to claim a repayment of that tax or any part of that tax.

(6) Where it is proved to the satisfaction of the Revenue Commissioners that a person has made a relevant donation, subsection (7), (9) or (11), as the case may be, shall apply.

(7) Where a company makes a relevant donation, other than a relevant donation to which subsection (18) applies, then, for the purposes of corporation tax, the amount of that donation shall be treated as—

(*a*) a deductible trading expense of a trade carried on by the company in, or

(*b*) an expense of management deductible in computing the total profits of the company for,

the relevant accounting period.

(8) A claim by a company under this section shall be made with the return required to be delivered by it under section 951 for the relevant accounting period.

(9) (*a*) Where a relevant donation, other than a relevant donation to which subsection (18) applies, is made by an individual who is a chargeable person (within the meaning of Part 41) for the relevant year of assessment, then—

(i) the amount of the donation shall be deducted from or set off against any income of the individual chargeable to income tax for that year of assessment and tax shall, where necessary, be discharged or repaid accordingly, and

(ii) the total income of the individual or, where the individual's spouse is assessed to income tax in accordance with section 1017, the total income of the spouse shall be calculated accordingly.

(*b*) For the purposes of paragraph (*a*), any such deduction or set-off shall not be taken into account in determining the net relevant earnings (within the meaning of section 787) of the individual or, as the case may be, the individual's spouse for the relevant year of assessment.

(10) Where a relevant donation is made by an individual who is an individual referred to in subsection (9), a claim under this section shall be made with the return required to be delivered by that individual under section 951 for the relevant year of assessment.

(11) Where a relevant donation, other than a relevant donation to which subsection (18) applies, is made by an individual who is not an individual referred to in subsection (9), the Tax Acts shall apply in relation to the approved sports body to which that donation is made as if—

(*a*) the grossed up amount of the donation were an annual payment which was the income of that body received by it under deduction of tax, in the amounts and at the rates specified in the statement referred to in paragraph (*b*) of the definition of 'appropriate certificate', for the relevant year of assessment, and

(*b*) the provisions of the Tax Acts which apply in relation to a claim to repayment of tax applied in relation to any claim to repayment of such tax by that body;

but, if the total amount of the tax referred to in paragraph (*b*) of the definition of 'appropriate certificate' is not paid, the amount of any repayment which would otherwise be made to that body in accordance with this section shall not exceed the amount of tax actually paid by that individual.

(12) The details contained in an appropriate certificate shall be given by the approved sports body to the Revenue Commissioners in an electronic format approved by the Revenue Commissioners in connection with the making of a claim to repayment of tax to which subsection (11)(*b*) refers and, where those details are so given, those details shall be accompanied by a declaration made by the approved sports body, on a form prescribed or authorised for that purpose by the Revenue Commissioners, to the effect that those details are correct and complete.

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(13) Where the Revenue Commissioners are satisfied that an approved sports body does not have the facilities to give the details contained in an appropriate certificate in the electronic format referred to in subsection (12), such details shall be given in writing in a form prescribed or authorised by the Revenue Commissioners and shall be accompanied by a declaration made by the approved sports body to the effect that the claim is correct and complete.

(14) Every approved sports body, when required to do so by notice in writing from the Minister, shall within the time limited by the notice prepare and deliver to the Minister a return containing particulars of the aggregate amount of relevant donations received by the body in respect of each approved project.

(15) Where any question arises as to whether for the purposes of this section a project is an approved project, or a donation is a relevant donation, the Revenue Commissioners may consult with the Minister.

(16) For the purposes of a claim to relief under this section, but subject to subsection (17), an approved sports body shall, on acceptance of a relevant donation, give to the person making the relevant donation a receipt which shall—

(*a*) contain a statement that—

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

(ii) the body is an approved sports body for the purposes of this section,

(iii) the donation in respect of which the receipt is given is a relevant donation for the purposes of this section, and

(iv) the project in respect of which the relevant donation has been made is an approved project,

(*b*) show—

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

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

(iii) the date the relevant donation was made,

(iv) the full name of the approved sports body,

(v) the date on which the receipt was issued, and

(vi) particulars of the approved project in respect of which the relevant donation has been made,

and

(*c*) be signed by a duly authorised official of the approved sports body.

(17) An approved sports body shall not be required to give a receipt under subsection (16) to a donor—

(*a*) who is an individual but who is not an individual to which subsection (9) applies, or

(*b*) in respect of a relevant donation to which subsection (18) applies.

(18) Relief under this section shall not be given in respect of a relevant donation which is made at any time to an approved sports body in respect of an approved project if, at that time, the aggregate of the amounts of that relevant donation and all other relevant donations made to the approved sports body in respect of the approved project at or before that time exceeds €40,000,000.

(19) Where relief under this section has been granted in respect of a relevant donation and—

(*a*) that donation has not been used by the sports body concerned for the purpose of undertaking the approved project concerned, or

(*b*) which relief is otherwise found not to have been due,

section 235(2) shall not apply to the amount of that relevant donation.

(20) 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 them.''.

(2) This section applies as on and from 1 May 2002.

Amendment of section 482 (relief for expenditure on significant buildings and gardens) of Principal Act.

42.—(1) Section 482 of the Principal Act is amended—

(*a*) in subsection (1)(*a*), in the definition of ''relevant expenditure'', by substituting the following for subparagraph (ii):

''(ii) in the case of expenditure incurred in a chargeable period earlier than that referred to in subparagraph (i), expenditure incurred by the person who owned or occupied the approved garden on the maintenance or restoration of the garden;'',

(*b*) in subsection (2)(*b*)(ii), by substituting ''on or before the 1st day of November'' for ''on or before the 1st day of January'',

(*c*) in subsection (8), by substituting ''on or before 1 November'' for ''on or before 1 January'', and

(*d*) after subsection (10), by inserting the following subsection:

''(11) The Tax Acts shall apply to a loss referred to in subsection (2) as they would apply if sections 396A and 420A had not been enacted.''.

(2) (*a*) *Paragraph (a)* of *subsection (1)* applies as on and from 30 November 1997.

(*b*) *Paragraphs (b)* and *(c)* of *subsection (1)* apply as respects a chargeable period, being the year of assessment 2002 and any subsequent year of assessment or an accounting

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period of a company beginning on or after 1 January 2002.

(*c*) *Paragraph (d)* of *subsection (1)* applies as on and from 6 March 2001.

Amendment of section 486B (relief for investment in renewable energy generation) of Principal Act.

43.—(1) Section 486B(1) of the Principal Act is amended by substituting for the definition of ''qualifying period'' the following definition:

'' 'qualifying period' means the period commencing on the commencement date and ending on 31 December 2004;''

(2) *Subsection (1)* comes into operation on such day as the Minister for Finance appoints by order.

Amendment of section 739D (gain arising on a chargeable event) of Principal Act.

44.—Section 739D of the Principal Act is amended—

(*a*) in subsection (1) by substituting ''In this Chapter and Schedule 2B'' for ''In this Chapter'',

(*b*) in subsection (6) by substituting the following for paragraph (*f*):

''(*f*) (i) is a person who—

(I) is exempt from income tax under Schedule D by virtue of section 207(1)(*b*), or

(II) is exempt from corporation tax by virtue of section 207(1)(*b*) as it applies for the purposes of corporation tax under section 76(6),

and

(ii) has made a declaration to the investment undertaking in accordance with paragraph 7 of Schedule 2B,'',

(*c*) in subsection (8D) by substituting the following for paragraphs (*a*) and (*b*):

''(*a*) In this subsection—

'offshore fund' means any of the following—

(i) a company not resident in the State,

(ii) a unit trust scheme, the trustees of which are neither resident nor ordinarily resident in the State, and

(iii) any arrangements not within subparagraphs (i) or (ii) which take effect by virtue of the law of a territory outside the State and which under that law create rights in the nature of co-ownership (without restricting that expression to its meaning in the law of the State),

in which persons have an interest and which is established for the purposes of collective investment by such persons and references in

this subsection to an offshore fund shall be construed as a reference to any such company, unit trust scheme or arrangements, in which such persons have an interest;

'scheme of migration and amalgamation' means an arrangement whereby the assets of an offshore fund are transferred to an investment undertaking in exchange for the issue by the investment undertaking of units to each of the persons who have an interest in the offshore fund, in proportion to the value of that interest, and as a result of which the value of that interest becomes negligible.

(*b*) A gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder where—

(i) under a scheme of migration and amalgamation the unit holder acquires units in the investment undertaking in exchange for the unit holder's interest in an offshore fund, and

(ii) within 30 days of the scheme of migration and amalgamation taking place, the investment undertaking forwards to the Collector-General a declaration of a kind referred to in paragraph (*c*),

otherwise than in respect of a unit holder whose name is included in the schedule referred to in paragraph (*c*)(ii).'',

and

(*d*) by substituting the following for subsection (9):

''(9) A gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder, where immediately before the chargeable event the investment undertaking or an investment undertaking associated with the first-mentioned investment undertaking—

(*a*) is, in relation to the units concerned, in possession of a declaration of a kind referred to in paragraph 13 of Schedule 2B, and

(*b*) is not in possession of any information which would reasonably suggest that—

(i) the information contained in that declaration is not, or is no longer, materially correct,

(ii) the intermediary failed to comply with the undertaking referred to in paragraph 13(*e*) of Schedule 2B, or

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(iii) any of the persons, on whose behalf the intermediary holds units of, or receives payments from, the investment undertaking, is resident or ordinarily resident in the State.

(9A) A gain shall not be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder where immediately before the chargeable event the investment undertaking or an investment undertaking associated with the first-mentioned investment undertaking—

(*a*) is, in relation to the units concerned, in possession of a declaration of a kind referred to in paragraph 14 of Schedule 2B, and

(*b*) is not in possession of any information which would reasonably suggest that—

(i) the information contained in that declaration is not, or is no longer, materially correct,

(ii) the intermediary failed to comply with the undertaking referred to in paragraph 14(*e*) of Schedule 2B, or

(iii) any of the persons, on whose behalf the intermediary holds units of, or receives payment from, the investment undertaking, is not a person referred to in paragraphs (*a*) to (*h*) of section 739D(6).''.

Amendment of Schedule 2B (investment undertakings declarations) to Principal Act.

45.—(1) Schedule 2B to the Principal Act is amended—

(*a*) in paragraph 13 by substituting the following for subparagraphs (*d*) and (*e*):

''(*d*) declares that—

(i) at the time of making the declaration, to the best of the intermediary's knowledge and belief, the person who has beneficial entitlement to each of the units in respect of which the declaration is made—

(I) is not resident in the State, where that person is a company, and

(II) where that person is not a company, the person is neither resident nor ordinarily resident in the State, and

(ii) unless the investment undertaking is notified in writing to the contrary, every subsequent application by the intermediary to acquire units in the investment undertaking or an investment undertaking associated with the first-mentioned investment undertaking, shall be on behalf of such a person,

(*e*) contains an undertaking that where the intermediary becomes aware at any time that the declaration made in accordance with subparagraph (*d*) is no longer correct, the intermediary will notify the investment undertaking in writing accordingly, and'',

and

(*b*) by inserting the following after paragraph 13:

''*Certain resident entities: declaration of intermediary*

14. The declaration referred to in section 739D(9A)(*a*) is a declaration in writing to the investment undertaking which—

(*a*) is made and signed by the intermediary,

(*b*) is made in such form as may be prescribed or authorised by the Revenue Commissioners,

(*c*) contains the name and address of the intermediary,

(*d*) declares that—

(i) at the time of making the declaration, to the best of the intermediary's knowledge and belief, the person who has beneficial entitlement to each of the units in respect of which the declaration is made is a person referred to in paragraphs (*a*) to (*h*) of section 739D(6), and

(ii) unless the investment undertaking is notified in writing to the contrary, every subsequent application by the intermediary to acquire units in the investment undertaking or an investment undertaking associated with the first-mentioned investment undertaking, shall be on behalf of such a person,

(*e*) contains an undertaking that where the intermediary becomes aware at any time that the declaration made under subparagraph (*d*) is no longer correct, the intermediary will notify the investment undertaking in writing accordingly, and

(*f*) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.''.

Amendment of Chapter 4 (certain offshore funds — taxation and returns) of Part 27 of Principal Act.

46.—(1) Chapter 4 of Part 27 of the Principal Act is amended—

(*a*) in section 747D by substituting the following for paragraph (*b*):

''(*b*) where the person is a company and the payment is not taken into account as a receipt of a

trade carried on by the company, the income represented by the payment shall be charged to tax under Case III of Schedule D.'',

and

(*b*) in section 747E by substituting the following for subsection (1):

''(1) Where on or after 1 January 2001 a person who has a material interest in an offshore fund, disposes of an interest in the offshore fund and the disposal gives rise to a gain computed in accordance with subsection (2) then, notwithstanding sections 745 and 747, where the gain is not taken into account in computing the profits or gains of a trade carried on by a company, the amount of that gain shall—

(*a*) be treated as an amount of income chargeable to tax under Case IV of Schedule D, and

(*b*) where the person is not a company, and the person has correctly included details of the disposal in a return made by the person, the rate of income tax to be charged on that income shall, notwithstanding section 15, be the rate determined by the formula—

(S + 3) per cent,

where S is the standard rate per cent.''.

(2) This section shall be deemed to have applied as on and from 1 January 2001.

Amendment of section 579A (attribution of gains to beneficiaries) of Principal Act.

47.—(1) Section 579A of the Principal Act is amended—

(*a*) by substituting the following for subsection (2):

''(2) (*a*) This section shall apply to a settlement for any year of assessment (beginning on or after 6 April 1999) during which the trustees are at no time resident or ordinarily resident in the State, and—

(i) the settlor does not have an interest in the settlement at any time in that year of assessment, or

(ii) the settlor does have an interest in the settlement but—

(I) was not domiciled in the State, and

(II) was neither resident nor ordinarily resident in the State,

in that year of assessment, or when the settlor made the settlement.

(*b*) Section 579 shall not apply as respects chargeable gains accruing after 5 April 1999 to trustees of a settlement to which this section applies; and references in subsections (4) and (5) to capital payments received by beneficiaries do not include references to any payments received before 11 February 1999 or any payments received on or after that date so far as they represent a chargeable gain which accrued to the trustees in respect of a disposal by the trustees before 11 February 1999.

(*c*) For the purposes of this subsection a settlor has an interest in a settlement if—

(i) any relevant property which is, or may at any time become, comprised in the settlement is, or will or may become, applicable for the benefit of or payable in any circumstances to, a relevant beneficiary,

(ii) any relevant income which arises, or may arise, under the settlement is, or will or may become, applicable for the benefit of or payable in any circumstances to, a relevant beneficiary, or

(iii) a relevant beneficiary enjoys a benefit directly or indirectly from any relevant property which is comprised in the settlement or any relevant income arising under the settlement.

(*d*) In this subsection—

'relevant beneficiary' means—

(i) the settlor,

(ii) the spouse of the settlor,

(iii) a company controlled by either or both the settlor and the spouse of the settlor, or

(iv) a company associated with a company referred to in paragraph (iii) of this definition;

'relevant income' means income originating from the settlor;

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'relevant property' means property originating from the settlor.

(*e*) For the purposes of this subsection—

(i) references to property originating from a person are references to property provided by that person, and property representing that property,

(ii) references to income originating from a person are references to income from property originating from that person and income provided by that person,

(iii) whether a company is controlled by a person or persons shall be construed in accordance with section 432 without regard to subsection (6) of that section,

(iv) whether a company is associated with another company shall be construed in accordance with section 432 without regard to subsection (6) of that section, and

(v) references to relevant property comprised in a settlement being, or becoming, applicable for the benefit of or payable in any circumstances to, a relevant beneficiary, do not include references to the repayment of, or obligation to repay, a loan to a settlor which loan was provided by the settlor to the trustees of the settlement on terms that it would be repaid.

(*f*) Where, for the year of assessment 2002 or any subsequent year of assessment, chargeable gains are treated as accruing to a beneficiary under a settlement by virtue of section 579, then notwithstanding that section such chargeable gains, in so far as they are in respect of a disposal made on or after 7 March 2002 by the trustees of the settlement, shall be treated as accruing to the settlor in relation to the settlement and not to any other person, if the settlor is resident or ordinarily resident in the State, whether or not the settlor is the beneficiary.'',

(*b*) by deleting subsections (10) and (11).

(2) *Subsection (1)* is deemed to have applied as on and from 11 February 1999.

Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act.

48.—(1) Chapter 5 of Part 26 of the Principal Act is amended—

(*a*) by substituting the following for section 730D(2)(*b*)(iii):

''(iii) a person who—

(I) is exempt from income tax under Schedule D by virtue of section 207(1)(*b*), or

(II) is exempt from corporation tax by virtue of section 207(1)(*b*) as it applies for the purposes of corporation tax under section 76(6), and'',

(*b*) by inserting the following after section 730D(2):

''(2A) (*a*) In this subsection—

'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA state' means a State, other than the State, which is a Contracting Party to the EEA Agreement;

'offshore state' means a State, other than the State, which is—

(*a*) a Member State of the European Communities, or

(*b*) a State which is an EEA state.

(*b*) A gain shall not be treated as arising on the happening of a chargeable event in relation to a life policy where—

(i) the assurance company which commenced the life policy has established a branch in an offshore state,

(ii) the commitment represented by that life policy is covered through that branch, and

(iii) the assurance company has received written approval from the Revenue Commissioners, to the effect that the provisions of subsection (2)(*a*) need not apply to the life policy, and that approval has not been withdrawn.

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(*c*) The Revenue Commissioners may give the approval referred to in paragraph (*b*)(iii) subject to such conditions as they consider necessary.

(*d*) The Revenue Commissioners may nominate in writing an inspector or other officer to perform any acts and discharge any functions authorised by this subsection to be performed or discharged by the Revenue Commissioners.'',

and

(*c*) by substituting the following for section 730E(3)(*e*)(iii):

''(iii) (I) a person who is entitled to exemption from income tax under Schedule D by virtue of section 207(1)(*b*), or

(II) a person who is entitled to exemption from corporation tax by virtue of section 207(1)(*b*) as it applies for the purposes of corporation tax under section 76(6),''.

Amendment of Part 36A (special savings incentive accounts) of Principal Act.

49.—Part 36A of the Principal Act is amended—

(*a*) in section 848C by substituting the following for paragraph (*h*):

''(*h*) for the account to be treated as maturing (otherwise than in respect of the death of the qualifying individual) in accordance with section 848H(1), the qualifying individual shall make a declaration of a kind referred to in section 848I at any time within the period of 3 months ending on the fifth anniversary of the end of the month in which a subscription was first made to the account,'',

(*b*) in section 848E by inserting the following after subsection (3):

''(3A) The provisions of section 267B(2) shall not apply to shares held in a special share account (within the meaning of section 267A) where the shares are a qualifying asset.'',

(*c*) in section 848H—

(i) by substituting the following for subsection (1)(*a*):

''(*a*) on the fifth anniversary of the end of the month in which a subscription was first made to the account where the qualifying individual has made a declaration of a kind referred to in section 848I and the qualifying savings manager is in possession of that declaration at that time, or,'',

and

(ii) by inserting the following after subsection (3):

''(4) Where at any time a special savings incentive account is treated as maturing or, as the case may be, ceasing, the amount of any income which accrues in respect of qualifying assets held in the account, in so far as it was not, but for this subsection, taken into account in determining a gain under section 848J, 848K or 848L, shall, when received, be treated as an amount of cash withdrawn from the account before the account is treated as maturing, or as the case may be, ceasing, and the qualifying savings manager shall be liable to tax in accordance with section 848M on the gain thereby arising under section 848L.'',

and

(*d*) in section 848M—

(i) by substituting the following for subsection (1):

''(1) A qualifying savings manager shall be liable to tax (in this Part referred to as 'relevant tax') representing income tax on a gain treated under this Part as accruing to a special savings incentive account in an amount equal to 23 per cent of the amount of that gain.'',

and

(ii) in subsection (4) by substituting ''to the best of the inspector's judgement'' for ''to the best of his or their judgement''.

Amendment of section 838 (special portfolio investment accounts) of Principal Act.

50.—Section 838(4) of the Principal Act is amended by inserting the following after paragraph (*b*):

''(*bb*) Notwithstanding paragraph (*b*), where, at the time a special portfolio investment account is closed, a loss has not been relieved under that paragraph because of an insufficiency of relevant income or gains at that time, that loss shall for the purposes of section 31 be treated as an allowable loss accruing at that time to the individual in whose name the special portfolio investment account was held.''.

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

51.—(1) Chapter 2 of Part 18 of the Principal Act is amended—

(*a*) in section 530(1)—

(i) in paragraph (*b*) of the definition of ''construction operations'', by inserting ''telecommunication apparatus,'' after ''power lines,'', and

(ii) in the definition of ''meat processing operations'', by inserting the following after paragraph (*f*):

''(*fa*) the rendering of the carcasses or any part of the carcasses of slaughtered cattle, sheep, pigs, domestic fowl, turkeys, guinea-fowl, ducks or geese,'',

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and

(*b*) in section 531—

(i) in subsection (8), by substituting ''the Income Tax (Relevant Contracts) Regulations 2000 (S.I. No. 71 of 2000)'' for ''the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971),'',

(ii) in subsection (10), by substituting ''the Income Tax (Relevant Contracts) Regulations 2000'' for ''the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971),'', and

(iii) in subsection (11)—

(I) in paragraph (*a*)(iv)(A), by substituting ''taxes, interest and penalties'' for ''taxes'', and

(II) in paragraph (*b*), by substituting ''subparagraphs (i) to (iv) and (vi)'' for ''subparagraphs (i) to (iv)''.

(2) (*a*) *Paragraph (a)*, and *subparagraph (iii)(I)* of *paragraph (b)*, of *subsection (1)* shall apply as on and from 1 April 2002.

(*b*) *Subparagraphs (i)* and *(ii)* of *subsection (1)(b)* shall be deemed to have come into operation as on and from 6 April 2000.

Amendment of section 951 (obligation to make a return) of Principal Act.

52.—Section 951(11) of the Principal Act is amended by inserting the following after paragraph (*c*):

''(*d*) The Collector-General may designate an address for the delivery of returns which, in accordance with subsection (1), are required to be delivered to him or her by chargeable persons who are chargeable to income tax or capital gains tax for a chargeable period which is a year of assessment, being the year of assessment 2001 or any subsequent year of assessment.

(*e*) Where the Collector-General designates an address under paragraph (*d*), that address shall be published in *Iris Oifigiúil* as soon as is practicable after such designation.''.

CHAPTER 4

Corporation Tax

Tonnage tax.

53.—(1) The Principal Act is amended by inserting the following after Part 24:

''PART 24A

SHIPPING: TONNAGE TAX

Interpretation (Part 24A).

697A.—(1) In this Part and in Schedule 18B—

'bareboat charter terms', in relation to the charter of a ship, means the letting on charter of a ship for a stipulated period on terms which give the charterer

possession and control of the ship, including the right to appoint the master and crew; PT.1 S.53

'chartered in' means—

(*a*) in relation to a single company, the letting on charter of a ship to the company otherwise than on bareboat charter terms, and

(*b*) in relation to a group of companies, the letting on charter of a ship otherwise than on bareboat charter terms to a qualifying company that is a member of the group by a person who is not a qualifying company that is a member of the group;

'company election' and 'group election' have the meanings respectively assigned to them by section 697D(1);

'commencement date' means the day appointed by the Minister for Finance by order as the day *section 53* of the *Finance Act, 2002*, comes into operation;

'control' shall be construed in accordance with subsections (2) to (6) of section 432;

'initial period' has the meaning assigned to it by paragraph 2 of Schedule 18B;

'group of companies' means—

(*a*) all the companies of which an individual has control, or

(*b*) where a company that is not controlled by another person controls one or more other companies, that company and all the companies of which that company has control,

and references to membership of a group and group shall be construed accordingly;

'Member State' means a Member State of the European Communities;

'qualifying company' means a company—

(*a*) within the charge to corporation tax,

(*b*) that operates qualifying ships, and

(*c*) which carries on the strategic and commercial management of those ships in the State;

'qualifying group' means a group of companies of which one or more members are qualifying companies;

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'qualifying ship' means, subject to subsection (2), a self-propelled seagoing vessel (including a hovercraft) of 100 tons or more gross tonnage which is certificated for navigation at sea by the competent authority of any country or territory, but does not include a vessel (in this Part and in Schedule 18B referred to as a 'vessel of an excluded kind') which is—

(*a*) a fishing vessel or a vessel used for subjecting fish to a manufacturing or other process on board the vessel,

(*b*) a vessel of a kind whose primary use is for the purposes of sport or recreation,

(*c*) a harbour, estuary or river ferry,

(*d*) an offshore installation, including a mobile or fixed rig, a platform or other installation of any kind at sea,

(*e*) a tanker used for petroleum extraction activities (within the meaning of Chapter 2 of Part 24),

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

(*g*) a tug in respect of which a certificate has not been given by the Minister for the Marine and Natural Resources certifying that in the opinion of the Minister the tug is capable of operating in seas outside the portion of the seas which are, for the purposes of the Maritime Jurisdiction Act, 1959, the territorial seas of the State;

'tonnage tax' has the meaning assigned to it in section 697B;

'tonnage tax activities', in relation to a tonnage tax company, means activities carried on by the company in the course of a trade which consists of one or more than one of the activities described in paragraphs (*a*) to (*j*) and paragraph (*m*) of the definition of 'relevant shipping income';

'tonnage tax asset' means an asset used wholly and exclusively for the purposes of the tonnage tax activities of a tonnage tax company;

'tonnage tax company' and 'tonnage tax group' mean, respectively, a company or group in relation to which a tonnage tax election has effect;

'tonnage tax election' has the meaning assigned to it in section 697D(1);

'tonnage tax profits', in relation to a tonnage tax company, means the company's profits for an accounting period calculated in accordance with section 697C;

'tonnage tax trade', in relation to a tonnage tax company, means a trade carried on by the company the income from which is within the charge to corporation tax and which consists solely of the carrying on of tonnage tax activities or, in the case of a trade consisting partly of the carrying on of such activities and partly of other activities, that part of the trade consisting solely of the carrying on of tonnage tax activities and which is treated under section 697L as a separate trade carried on by the company;

'relevant shipping income', in relation to a tonnage tax company, means the company's income from—

(*a*) the carriage of passengers by sea in a qualifying ship operated by the company, including income in respect of which the conditions set out in section 697I are met,

(*b*) the carriage of cargo by sea in a qualifying ship operated by the company, including income in respect of which the conditions set out in section 697I are met,

(*c*) towage, salvage or other marine assistance by a qualifying ship operated by the company,

(*d*) transport in connection with other services of a kind necessarily provided at sea by a qualifying ship operated by the company,

(*e*) the provision on board a qualifying ship operated by the company of services ancillary to the carriage of passengers or cargo,

(*f*) the granting of rights by virtue of which another person provides or will provide such ancillary services on board a qualifying ship operated by the company,

(*g*) other ship-related activities that are a necessary and integral part of the business of operating the company's qualifying ships,

(*h*) the provision at sea of marine research facilities on board a qualifying ship operated by the company,

(*i*) the letting on charter of a qualifying ship for use for the carriage by sea of passengers and cargo where the operation of the ship and the crew of the ship remain

under the direction and control of the company,

(*j*) the provision of ship management services for qualifying ships operated by the company,

(*k*) a dividend or other distribution of a company not resident in the State (in this Part referred to as the 'overseas company') in respect of which the conditions set out in section 697H(1) are met,

(*l*) gains treated as income by virtue of section 697J,

(*m*) activities which are incidental to the activities described in paragraphs (*a*) to (*j*) (in this paragraph referred to as the 'core activities') where the turnover in an accounting period of the company from all such incidental activities does not exceed 0.25 per cent of the company's turnover from its core activities,

'relevant shipping profits', in relation to a tonnage tax company, means—

(*a*) the company's relevant shipping income, and

(*b*) so much of the company's chargeable gains as are excluded from the charge to tax by section 697N;

'renewal election' has the meaning assigned to it in paragraph 6 of Schedule 18B;

'75 per cent limit' has the meaning assigned to it by section 697E.

(2) A vessel is not a qualifying ship for the purposes of this Part if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land.

(3) (*a*) References in this Part and in Schedule 18B to a company or group entering or leaving tonnage tax are references to its becoming or ceasing to be a tonnage tax company or group.

(*b*) References in this Part and in Schedule 18B to a company or group of companies being subject to tonnage tax are references to the company or group being entitled to calculate its profits in accordance with the provisions of this Part and that Schedule.

(4) Schedule 18B shall apply for the purposes of this Part.

Application.

697B.—Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, this Part and Schedule 18B shall apply to provide an alternative method (in this Part referred to as 'tonnage tax') for computing the profits of a qualifying company for the purposes of corporation tax.

Calculation of profits of tonnage tax company.

697C.—(1) The tonnage tax profits of a tonnage tax company shall be charged to corporation tax in place of the company's relevant shipping profits.

(2) Where the profits of a tonnage tax company would be relevant shipping income, any loss accruing to the company in respect of its tonnage tax activities or any loss which would, but for this subsection, be taken into account by virtue of section 79 in computing the trading income of the company shall not be brought into account for the purposes of corporation tax.

(3) A company's tonnage tax profits for an accounting period in respect of each qualifying ship operated by the company shall be calculated in accordance with this section by reference to the net tonnage of each qualifying ship operated by the company and, for this purpose, the net tonnage of a ship shall be rounded down (if necessary) to the nearest multiple of 100 tons.

(4) The daily profit to be attributed to each qualifying ship operated by the company shall be determined by reference to the net tonnage of the ship as follows:

(*a*) for each 100 tons up to 1,000 tons, €1.00,

(*b*) for each 100 tons between 1,000 and 10,000 tons, €0.75,

(*c*) for each 100 tons between 10,000 and 25,000 tons, €0.50, and

(*d*) for each 100 tons above 25,000 tons, €0.25.

(5) The profit to be attributed to each qualifying ship for the accounting period shall be determined by multiplying the daily profit as determined under subsection (4) by—

(*a*) the number of days in the accounting period, or

(*b*) if the ship was operated by the company as a qualifying ship for only part of the period, by the number of days in that part of the accounting period.

(6) The amount of the company's tonnage tax profits for the accounting period shall be the aggregate of the profit determined in respect of each qualifying ship operated by the company in accordance with subsection (5).

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(7) If 2 or more companies are to be regarded as operators of a ship by virtue of a joint interest in the ship, or in an agreement for the use of the ship, the tonnage tax profits of each company shall be calculated as if each were entitled to a share of the profits proportionate to its share of that interest.

(8) If 2 or more companies are to be treated as the operator of a ship otherwise than as mentioned in subsection (7), the tonnage tax profits of each shall be computed as if each were the only operator.

Election for tonnage tax.

697D.—(1) Tonnage tax shall apply only if an election (in this Part and Schedule 18B referred to as a 'tonnage tax election') under this Part to that effect is made by a qualifying single company (in this Part and in Schedule 18B referred to as a 'company election') or by a qualifying group of companies (in this Part and in Schedule 18B referred to as a 'group election').

(2) (*a*) Tonnage tax shall only apply to a company which is a member of a group of companies if the company joins in a group election which shall be made jointly by all the qualifying companies in the group.

(*b*) A group election shall have effect in relation to all qualifying companies in the group.

(3) A tonnage tax election shall be made only if the requirements of section 697E and 697F are met.

(4) Part 1 of Schedule 18B shall apply for the purposes of making and giving effect to an election under this Part.

Requirement that not more than 75 per cent of fleet tonnage is chartered in.

697E.—(1) It shall be a requirement (in this Part and Schedule 18B referred to as the '75 per cent limit') of entering or remaining within tonnage tax—

(*a*) in the case of a single company, that not more than 75 per cent of the net tonnage of the qualifying ships operated by it is chartered in,

(*b*) in the case of a group of companies, that not more than 75 per cent of the aggregate net tonnage of the qualifying ships operated by the members of the group that are qualifying companies is chartered in.

(2) A ship shall not be counted more than once in determining for the purposes of subsection (1)(*b*) the aggregate net tonnage of the qualifying ships operated by the members of a group that are qualifying companies.

(3) Where a tonnage tax election (not being a renewal election) is made before the end of the

initial period and the 75 per cent limit is exceeded in the first relevant accounting period, the election shall be treated as never having been of any effect.

(4) Where a tonnage tax election (not being a renewal election) is made after the end of the initial period, then—

(*a*) if the 75 per cent limit is exceeded in the first relevant accounting period, the election shall not have effect in relation to that period,

(*b*) if the 75 per cent limit is exceeded in the first and second relevant accounting periods, the election shall not have effect in relation to either of those periods, and

(*c*) if the 75 per cent limit is exceeded in the first, second and third relevant accounting periods, the election shall be treated as never having been of any effect.

(5) For the purposes of subsections (3) and (4) the first, second or third relevant accounting period means—

(*a*) in relation to a single company, the accounting period that, if the election had been effective, would have been the first, second or third accounting period of the company after its entry into tonnage tax, and

(*b*) in relation to a group of companies, the accounting period that, if the election had been effective, would have been the first, second or third accounting period of a member of the group that would have been a tonnage tax company.

(6) References in this section to the 75 per cent limit being exceeded in an accounting period are to the limit being exceeded on average over the accounting period in question.

(7) (*a*) If the 75 per cent limit is exceeded in 2 or more consecutive accounting periods of a tonnage tax company (in this subsection referred to as the 'relevant company') the Revenue Commissioners may give notice excluding the relevant company or the group of companies of which the relevant company is a member from tonnage tax.

(*b*) The effect of any such notice is that the relevant company's tonnage tax election or the tonnage tax election of the group of which the relevant company is a member shall cease to be in force from such date as may be specified in the notice.

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(*c*) The specified date shall not be earlier than the beginning of the accounting period of the relevant company that follows the second consecutive accounting period of that company in which the limit is exceeded.

(*d*) Subject to any arrangements under paragraph 22 of Schedule 18B, a notice under this subsection need only be given to the relevant company.

Requirement not to enter into tax avoidance arrangements.

697F.—(1) It shall be a condition of remaining within tonnage tax that a company is not a party to any transaction or arrangement that is an abuse of the tonnage tax regime.

(2) A transaction or arrangement shall be such an abuse as is referred to in subsection (1) if in consequence of its being, or having been, entered into the provisions of this Part and Schedule 18B may be applied in a way that results (or would but for this subsection result) in—

(*a*) a tax advantage (within the meaning of section 811) being obtained for—

(i) a company other than a tonnage tax company, or

(ii) a tonnage tax company in respect of its non-tonnage tax activities, or

(*b*) the amount of the tonnage tax profits of a tonnage tax company being artificially reduced.

(3) If a tonnage tax company is a party to any such transaction or arrangement as is referred to in subsection (1), the Revenue Commissioners may—

(*a*) if it is a single company, give notice excluding it from tonnage tax;

(*b*) if it is a member of a group, subject to paragraph 22 of Schedule 18B, give notice to the tonnage tax company excluding the group from tonnage tax.

(4) The effect of such a notice as is referred to in subsection (3)—

(*a*) in the case of a single company, is that the company's tonnage tax election shall cease to be in force from the beginning of the accounting period in which the transaction or arrangement was entered into, and

(*b*) in the case of a group, is that the group's tonnage tax election shall cease to be in force from such date as may be specified in the notice, but the date so specified

shall not be earlier than the beginning of the earliest accounting period in which any member of the group entered into the transaction or arrangement in question.

(5) The provisions of sections 697P apply where a company ceases to be a tonnage tax company by virtue of this section.

Appeals.

697G.—Any person aggrieved by the giving of such a notice as is referred to in section 697E or 697F may by notice in writing to that effect made to the Revenue Commissioners within 30 days from the date of the giving of the first-mentioned notice appeal to the Appeal Commissioners. In the case of a notice given to a tonnage tax company which is a member of a group of companies only one appeal may be brought, but it may be brought jointly by 2 or more members of the group concerned.

Relevant shipping income: distributions of overseas shipping companies.

697H.—(1) The conditions referred to in paragraph (*k*) of the definition of 'relevant shipping income' in section 697A are—

(*a*) that the overseas company operates qualifying ships;

(*b*) that more than 50 per cent of the voting power in the overseas company is held by a company resident in a Member State, or that 2 or more companies each of which is resident in a Member State hold in aggregate more than 50 per cent of that voting power;

(*c*) that the 75 per cent limit is not exceeded in relation to the overseas company in any accounting period in respect of which the distribution is paid;

(*d*) that all the income of the overseas company is such that, if it were a tonnage tax company, it would be relevant shipping income;

(*e*) that the distribution is paid entirely out of profits arising at a time when—

(i) the conditions in paragraphs (*a*) to (*d*) were met, and

(ii) the tonnage tax company was subject to tonnage tax;

and

(*f*) the profits of the overseas company out of which the distribution is paid are subject to a tax on profits (in the country of residence of the company or elsewhere, or partly in that country and partly elsewhere).

(2) A dividend or other distribution of an overseas company which is made out of profits which are referable to a dividend or other distribution in relation to which the conditions of subsection (1) are met shall be deemed for the purposes of this Part to be a dividend or other distribution in respect of which the conditions in subsection (1) are met.

(3) Section 440 shall not apply to dividends and other distributions of an overseas company which is relevant shipping income of a tonnage tax company.

Relevant shipping income: cargo and passengers.

697I.—The conditions referred to in paragraphs (*a*) and (*b*) of the definition of 'relevant shipping income' in section 697A are—

(*a*) that the income arises from the transport of passengers or cargo,

(*b*) that there is a single contract between the tonnage tax company and a customer for the transport of cargo or passengers which includes carriage by sea in a qualifying ship operated by the company, and

(*c*) that the transport for the remainder of the journey is purchased or obtained by the tonnage tax company by way of a bargain made at arm's length such as would be made between persons who are not connected.

Relevant shipping income: foreign currency gains.

697J.—(1) This section shall apply to—

(*a*) any gain, whether realised or unrealised, attributable to a relevant monetary item (within the meaning of section 79) which would but for this Part be taken into account in computing the trading income of a company's tonnage tax trade in accordance with section 79, and

(*b*) any gain, whether realised or unrealised, attributable to a relevant contract (within the meaning of section 79) which would but for this Part be taken into account in computing the trading income of a company's tonnage tax trade in accordance with section 79.

(2) Where this section applies to any gain, the gain shall be treated as income for the purposes of the definition of 'relevant shipping income' in section 697A.

General exclusion of investment income.

697K.—(1) Income from investments shall not be relevant shipping income, and for this purpose 'income from investments' includes any income chargeable to tax under Case III, IV or V of Schedule D or under Schedule F.

(2) To the extent that an activity gives rise to income from investments it shall not be regarded as part of a company's tonnage tax activities.

(3) Subsection (1) shall not apply to income that is relevant shipping income under sections 697H and 697I or to income that is relevant shipping income by virtue of paragraph (*m*) of the definition of 'relevant shipping income'.

Tonnage tax trade.

697L.—(1) Subject to section 697M, where in an accounting period a tonnage tax company carries on as part of a trade tonnage tax activities, those activities shall be treated for the purposes of the Corporation Tax Acts (other than any provision of those Acts relating to the commencement or cessation of a trade) as a separate trade distinct from all other activities carried on by the company as part of the trade.

(2) An accounting period of a company shall end (if it would not otherwise do so) when the company enters or leaves tonnage tax.

Exclusion of reliefs, deductions and set-offs.

697M.—(1) No relief, deduction or set-off of any description is allowed against the amount of a company's tonnage tax profits.

(2) (*a*) When a company enters tonnage tax, any losses that have accrued to it before entry and are attributable—

(i) to activities that under tonnage tax become part of the company's tonnage tax trade, or

(ii) to a source of income that under tonnage tax becomes relevant shipping income,

shall not be available for loss relief in any accounting period beginning on or after the company's entry into tonnage tax.

(*b*) Any apportionment necessary to determine the losses so attributable shall be made on a just and reasonable basis.

(*c*) In paragraph (*a*) 'loss relief' includes any means by which a loss might be used to reduce the amount in respect of which that company, or any other company, is chargeable to tax.

(3) (*a*) Any relief or set-off against a company's tax liability for an accounting period shall not apply in relation to so much of that tax liability as is attributable to the company's tonnage tax profits.

(*b*) Relief to which this subsection applies includes, but is not limited to, any relief

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or set-off under section 826, 828 or Part 2 of Schedule 24.

(*c*) This subsection shall not apply to any set-off under section 24(2) or 25(3).

Chargeable gains.

697N.—(1) Where for one or more continuous periods of at least 12 months part of an asset has been used wholly and exclusively for the purposes of the tonnage tax activities of a tonnage tax company and part has not, this section shall apply as if the part so used were a separate asset.

(2) Where subsection (1) applies, any necessary apportionment of the gain or loss on the disposal of the whole asset shall be made on a just and reasonable basis.

(3) (*a*) When an asset is disposed of that is or has been a tonnage tax asset—

(i) any gain or loss on the disposal, which but for this paragraph would have been the amount of the chargeable gain or the allowable loss, shall be a chargeable gain or allowable loss only to the extent (if any) to which it is referable to periods during which the asset was not a tonnage tax asset, and

(ii) any such chargeable gain or allowable loss on a disposal by a tonnage tax company shall be treated as arising otherwise than in the course of the company's tonnage tax trade.

(*b*) For the purposes of paragraph (*a*), the proportion of the gain or loss referable to periods during which the asset was not a tonnage tax asset shall be determined by the formula:

$$\frac{(P - T)}{P}$$

where

P is the total length of the period since the asset was created or, if later, the last third-party disposal, and

T is the length of the period (or the aggregate length of the periods) since—

(I) the asset was created, or

(II) if later, the last third-party disposal,

during which the asset was a tonnage tax asset.

(*c*) In paragraph (*b*) a 'third-party disposal' means a disposal (or deemed disposal) that is not treated as one on which neither a gain nor a loss accrues to the person making the disposal.

(4) A tonnage tax election shall not affect the deduction under section 31 as applied by section 78(2) of relevant allowable losses (within the meaning of section 78) that accrued to a company before it became a tonnage tax company.

Capital allowances: general.

697O.—(1) A company's tonnage tax trade shall not be treated as a trade for the purposes of determining the company's entitlement to capital allowances under Part 9 or under any other provision which is to be construed as one with that Part, but nothing in this subsection shall be taken as preventing the making of a balancing charge under those provisions as applied by Schedule 18B.

(2) Notwithstanding any other provision of the Tax Acts, Part 9 insofar as it relates to machinery or plant shall not apply to machinery or plant provided for leasing by a lessor (within the meaning of section 403) who is an individual to a lessee (within the meaning of section 403) for use in a tonnage tax trade carried on or to be carried on by the lessee.

(3) Part 3 of Schedule 18B shall apply for the purposes of applying the provisions of Part 9 or any other provision which is to be construed as one with that Part for the purposes of a tonnage tax trade of a tonnage tax company.

Withdrawal of relief etc. on company leaving tonnage tax.

697P.—(1) This section shall apply where a company ceases to be a tonnage tax company—

(*a*) on ceasing to be a qualifying company for reasons relating wholly or mainly to tax, or

(*b*) under section 697F.

(2) Where this section applies, section 697N shall apply in relation to chargeable gains (within the meaning of the Capital Gains Tax Acts), but not losses, on all relevant disposals as if the company had never been a tonnage tax company and for this purpose a 'relevant disposal' means a disposal—

(*a*) on or after the day on which the company ceases to be a tonnage tax company, or

(*b*) at any time during the period of 6 years immediately preceding that day when the company was a tonnage tax company.

(3) Where subsection (2) operates to increase the amount of the chargeable gain on a disposal made at a time within the period mentioned in subparagraph (2)(*b*), the gain is treated to the extent of the increase—

(*a*) as arising immediately before the company ceased to be a tonnage tax company, and

(*b*) as not being relevant shipping profits of the company.

(4) No relief, deduction or set-off of any description shall be allowed against the amount of that increase or the corporation tax charged on that amount.

(5) Where this section applies and in a relevant accounting period during which the company was a tonnage tax company the company was liable to a balancing charge in relation to which paragraph 16 or 17, as appropriate, of Schedule 18B applied to reduce the amount of the charge, then the company shall be treated as having received an additional amount of profits chargeable to corporation tax equal to the aggregate of the amounts by which those balancing charges were reduced.

(6) For the purposes of subsection (5) a 'relevant accounting period' means an accounting period ending not more than 6 years before the day on which the company ceased to be a tonnage tax company.

(7) The additional profits referred to in subsection (5) shall be treated—

(*a*) as arising immediately before the company ceased to be a tonnage tax company, and

(*b*) as not being relevant shipping profits of the company.

(8) No relief, deduction or set-off of any description shall be allowed against those profits or against the corporation tax charged on them.

Ten year disqualification from re-entry into tonnage tax.

697Q.—(1) This section shall apply in every case where a company ceases to be a tonnage tax company otherwise than on the expiry of a tonnage tax election.

(2) Where this section applies—

(*a*) a company election made by a former tonnage tax company shall be ineffective if made before the end of the period of 10 years beginning with the date on which the company ceased to be a tonnage tax company, and

(*b*) a group election that—

(i) is made in respect of a group whose members include a former tonnage tax company, and

(ii) would result in that company becoming a tonnage tax company,

shall be ineffective if made before the end of the period of 10 years beginning with the date on which that company ceased to be a tonnage tax company.

(3) This section shall not prevent a company becoming a tonnage tax company under and in accordance with the rules in Part 4 of Schedule 18B.

(4) In this section 'former tonnage tax company' means a company that is not a tonnage tax company but has previously been a tonnage tax company.''.

(2) The Principal Act is amended by inserting the following after Schedule 18A:

''SCHEDULE 18B

TONNAGE TAX

Part 1

Matters relating to election for tonnage tax

Method of making election

1. (1) A tonnage tax election shall be made by notice to the Revenue Commissioners.

(2) The notice shall contain such particulars and be supported by such evidence as the Revenue Commissioners may require.

When election may be made

2. (1) A tonnage tax election may be made at any time before the end of the period (in this Schedule referred to as the 'initial period') of 36 months beginning on the commencement date.

(2) After the end of the initial period a tonnage tax election may only be made in the circumstances specified in subparagraphs (3) and (4).

(3) (*a*) An election may be made after the end of the initial period in respect of a single company that becomes a qualifying company and has not previously been a qualifying company at any time on or after the commencement date.

(*b*) Any election under this subparagraph shall be made before the end of the period of 36 months beginning with the day on which the company became a qualifying company.

(4) (*a*) An election may be made after the end of the initial period in respect of a group of companies that becomes a qualifying group of companies by virtue of a member of the group becoming a qualifying company, not previously having been a qualifying company, at any time on or after the commencement date.

(*b*) This subparagraph shall not apply if the group of companies-

(i) was previously a qualifying group at any time on or after the commencement date, or

(ii) is substantially the same as a group that was previously a qualifying group of companies at any such time.

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(*c*) An election under this subparagraph shall be made before the end of the period of 36 months beginning with the day on which the group of companies became a qualifying group of companies.

(5) This paragraph shall not prevent an election being made under Part 4.

(6) The Minister for Finance may by order provide for further periods within which a tonnage tax election may be made, and any such order may provide for this Part of this Schedule to apply, with any necessary modifications, as appears to the Minister to be appropriate in relation to such further periods as it applies in relation to the initial period.

When election takes effect

3. (1) Subject to this paragraph, a tonnage tax election shall have effect from the beginning of the accounting period in which it is made.

(2) A tonnage tax election shall not have effect in relation to an accounting period beginning before 1 January 2002, but where a tonnage tax election would have effect under subparagraph (1) for an accounting period beginning before 1 January 2002 the election shall have effect from the beginning of the accounting period following that in which it is made.

(3) The Revenue Commissioners may allow a tonnage tax election made before the end of the initial period to have effect from the beginning of an accounting period earlier than that in which it is made (but not one beginning before 1 January 2002).

(4) The Revenue Commissioners may allow a tonnage tax election made before the end of the initial period to have effect from the beginning of the accounting period following that in which it is made or, where the Revenue Commissioners determine that due to exceptional circumstances, unrelated to the avoidance or reduction of tax, it is commercially impracticable for the election to take effect, the beginning of the next following accounting period.

(5) In the case of a group election made in respect of a group of companies where the members have different accounting periods, subparagraph (1) or, if appropriate, subparagraph (3) or (4) shall apply in relation to each qualifying company by reference to that company's accounting periods.

(6) Subject to section 697E(4), a tonnage tax election under paragraph 2(3) or (4) shall have effect from the time at which the company in question became a qualifying company.

Period for which election is in force

4. (1) Subject to subparagraphs (2) and (3) and paragraph 6(3), a tonnage tax election shall remain in force until it expires at the end of the period of 10 years beginning—

(*a*) in the case of a company election, with the first day on which the election has effect in relation to the company, and

(*b*) in the case of a group election, with the first day on which the election has effect in relation to any member of the group.

(2) A tonnage tax election shall cease to be in force—

(*a*) in the case of a company election, if the company ceases to be a qualifying company, and

(*b*) in the case of a group election, if the group of companies ceases to be a qualifying group.

(3) A tonnage tax election may also cease to be in force under Part 4.

Effect of election ceasing to be in force

5. A tonnage tax election that ceases to be in force shall cease to have effect in relation to any company.

Renewal election

6. (1) At any time when a tonnage tax election is in force in respect of a single company or group of companies a further tonnage tax election (in Part 24A and this Schedule referred to as a 'renewal election') may be made in respect of that company or group.

(2) Section 697D and paragraphs 1, 4 and 5 shall apply in relation to a renewal election as they apply in relation to an original tonnage tax election.

(3) A renewal election supersedes the existing tonnage tax election.

Part 2

Matters relating to qualifying ships

Company temporarily ceasing to operate qualifying ships

7. (1) This paragraph shall apply where a company temporarily ceases to operate any qualifying ships.

(2) This paragraph shall not apply where a company continues to operate a ship that temporarily ceases to be a qualifying ship.

(3) If a company which temporarily ceases to operate any qualifying ships gives notice to the Revenue Commissioners stating—

(*a*) its intention to resume operating qualifying ships, and

(*b*) its wish to remain within tonnage tax,

the company shall be treated for the purposes of Part 24A and this Schedule as if it had continued to operate the qualifying ship or ships it operated immediately before the temporary cessation.

(4) The notice must be given on or before the specified return date for the chargeable period (within the meaning of Part 41) of the company in which the temporary cessation begins.

(5) This paragraph shall cease to apply if and when the company—

(*a*) abandons its intention to resume operating qualifying ships, or

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(*b*) again in fact operates a qualifying ship.

Meaning of operating a ship

8. (1) Subject to this paragraph, a company is regarded for the purposes of Part 24A and this Schedule as operating any ship owned by, or chartered to, the company.

(2) (*a*) A company shall not be regarded as the operator of a ship where part only of the ship has been chartered to it.

(*b*) For the purpose of subparagraph (*a*), a company shall not be taken as having part only of a ship chartered to it by reason only of the ship being chartered to it jointly with one or more other persons.

(3) Except as provided by subparagraphs (4) and (5), a company shall not be regarded as the operator of a ship that has been chartered out by it on bareboat charter terms.

(4) (*a*) A company shall be regarded as operating a ship that has been chartered out by it on bareboat charter terms if the person to whom it is chartered is not a third party.

(*b*) For the purpose of subparagraph (*a*), a 'third party' means—

(i) in the case of a single company, any other person,

(ii) in the case of a member of a group of companies—

(I) any member of the group that is not a tonnage tax company (and does not become a tonnage tax company by virtue of the ship being chartered to it), or

(II) any person who is not a member of the group.

(5) A company shall not be regarded as ceasing to operate a ship that has been chartered out by it on bareboat charter terms if—

(*a*) the ship is chartered out because of short-term overcapacity, and

(*b*) the term of the charter does not exceed 3 years.

(6) A company shall be regarded as operating a qualifying ship for the purposes of the activity described in paragraph (*j*) of the definition of 'relevant shipping income' in section 697A if that company has entered contractual arrangements in relation to the provision of ship management services for the qualifying ship for a stipulated period and the terms of those arrangements give the company—

(*a*) possession and control of the ship,

(*b*) control over the day to day management of the ship, including the right to appoint the master and crew and route planning,

(*c*) control over the technical management of the ship, including decisions on its repair and maintenance,

(*d*) control over the safety management of the ship, including ensuring that all necessary safety and survey certificates are current,

(*e*) control over the training of the officers and crew of the ship, and

(*f*) the management of the bunkering, victualling and provisioning of the ship,

and those terms are actually implemented for the period in which the company provides ship management services in respect of that ship.

Qualifying ship used as vessel of an excluded kind

9. (1) A qualifying ship that begins to be used as a vessel of an excluded kind ceases to be a qualifying ship when it begins to be so used, but if—

(*a*) a company operates a ship throughout an accounting period of the company, and

(*b*) in that period the ship is used as a vessel of an excluded kind on not more than 30 days, that use shall be disregarded in determining whether the ship is a qualifying ship at any time during that period.

(2) In the case of an accounting period shorter than a year, the figure of 30 days in subparagraph (1) shall be proportionately reduced.

(3) If a company operates a ship during part only of an accounting period of the company, subparagraph (1) shall apply as if for 30 days, or the number of days substituted by subparagraph (2), there were substituted the number of days that bear to the length of that part of the accounting period the same proportion that 30 days bears to a year.

Part 3

Capital Allowances, Balancing Charges and Related Matters

Plant and machinery used wholly for tonnage tax trade

10. (1) (*a*) This subparagraph shall apply where, on a company's entry to tonnage tax, machinery or plant, in respect of which capital expenditure was incurred by the company before its entry into tonnage tax, is to be used wholly and exclusively for the purposes of the company's tonnage tax trade.

(*b*) Where this subparagraph applies—

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(i) no balancing charge or balancing allowance shall be made under section 288 as a result of the machinery or plant concerned being used for the purposes of the company's tonnage tax trade,

(ii) any allowance attributable to the machinery or plant referred to in subparagraph (*a*) which, but for this clause, would have been made to the company under Part 9 or under any provision that is construed as one with that Part for any accounting period in which the company is a tonnage tax company shall not be made, and

(iii) section 287 shall not apply as respects any accounting period during which the machinery or plant has been used wholly and exclusively for the purposes of a company's tonnage tax trade.

(2) (*a*) This subparagraph shall apply where the machinery or plant referred to in subparagraph (1)(*a*) begins to be used wholly or partly for purposes other than those of the company's tonnage tax trade.

(*b*) Where this subparagraph applies and the asset begins to be wholly used for purposes other than the company's tonnage tax trade—

(i) no balancing allowance shall be made on the company under section 288(2) for any period in which the company is subject to tonnage tax,

(ii) for the purposes of making a balancing charge under section 288 on the happening of any of the events referred to in subsection (1) of that section—

(I) section 296 shall not apply as respects any accounting period of a company in which the company is subject to tonnage tax,

(II) where the event occurs at a time when the company is subject to tonnage tax, the amount of the capital expenditure of the company still unallowed at the time of the event shall, notwithstanding section 296, be the amount of the capital expenditure of the company on the provision of the machinery or plant which was still unallowed at the time the company's election into tonnage tax had effect, and

(III) where the event occurs at a time when the company is subject to tonnage tax, the references in section 288 to sale, insurance, salvage or compensation moneys and the reference in section 289(3)(*b*) to the open-market price of the machinery or plant shall be taken to be references to the least of—

(A) the actual cost to the company of the machinery or plant for the purpose of the trade carried on by the company,

(B) the price the machinery or plant would have fetched if sold in the open market at the time the company's election into tonnage tax had effect, and

(C) the sale, insurance, salvage or compensation moneys (within the meaning of Part 9) arising from the event or, where paragraph (*b*) of section 289(3) applies, the open-market price of the machinery or plant (within the meaning of that section) at the time of the event.

(*c*) Where this subparagraph applies and the asset begins to be partly used for purposes other than the company's tonnage tax trade—

(i) the machinery or plant shall be treated as 2 separate assets one in use wholly and exclusively for the purposes of the tonnage tax trade and the other in use wholly and exclusively for purposes other than the company's tonnage tax trade,

(ii) subparagraph (2)(*b*) shall apply in relation to the part of the asset treated by virtue of this subparagraph as in use wholly and exclusively for the purposes of the tonnage tax trade as it applies in relation to machinery or plant which begins to be used wholly for purposes other than the company's tonnage tax trade,

(iii) in determining the amount of any capital allowance or balancing charge, if any, to be made under Part 9 or under any other provision to be construed as one with that Part in relation to the part of the asset treated by virtue of this subparagraph as in use wholly and exclusively for purposes other than the company's tonnage tax trade regard shall be had to all relevant circumstances and, in particular, to the extent of the use, if any, of the machinery or plant for the purposes of a trade, and there shall be made to or on the company, in respect of that trade, an allowance of such an amount or a balancing charge of such an amount, as may be just and reasonable.

Plant and machinery used partly for purposes of tonnage tax trade

11. (1) This paragraph shall apply where, on a company's entry into tonnage tax, machinery or plant, in respect of which capital expenditure was incurred by the company before its entry into tonnage tax, is to be used partly for the purposes of the company's tonnage tax trade and partly for purposes other than the company's tonnage tax trade.

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(2) Where this paragraph applies—

(*a*) the machinery or plant referred to in subparagraph (1) shall be treated as 2 separate assets one in use wholly and exclusively for the purposes of the tonnage tax trade and the other in use wholly and exclusively for the purposes of the other trade of the company,

(*b*) subject to clause (*c*), in determining the amount of—

(i) any capital allowance or balancing charge to be made in respect of that part of the asset treated as in use wholly and exclusively for purposes other than the company's tonnage tax trade under Part 9 or under any provision which is to be construed as one with that Part, or

(ii) the amount of any balancing charge to be made for the purpose of the tonnage tax trade under Part 9, or under any provision which is to be construed as one with that Part, as applied by this Schedule,

regard shall be had to all relevant circumstances and, in particular, to the extent of the use of the machinery or plant for the purposes of a trade other than the tonnage tax trade, and there shall be made to or on the company, in respect of that trade, an allowance of such an amount, or, in respect of both the tonnage tax trade and the other trade, a balancing charge of such an amount, as may be just and reasonable, and

(*c*) paragraph 10(1)(*b*) and paragraph 10(2)(*b*) shall apply in relation to the part of the asset treated by virtue of this paragraph as in use wholly and exclusively for the purposes of the tonnage tax trade as they apply in relation to the machinery or plant referred to in paragraph 10(1)(*a*).

Plant and machinery: new expenditure partly for tonnage tax purposes

12. (1) This paragraph shall apply where a company subject to tonnage tax incurs capital expenditure on the provision of machinery or plant partly for the purposes of its tonnage tax trade and partly for the purposes of another trade carried on by the company.

(2) Where this paragraph applies the machinery or plant shall be treated as 2 separate assets one in use wholly and exclusively for the purposes of the tonnage tax trade and the other in use wholly and exclusively for the purposes of the other trade of the company and, in determining the amount of any capital allowance, or the amount of any charge to be made, under Part 9 or under any provision which is to be construed as one with that Part in the case of that part of the asset treated as a separate asset for the purposes of the other trade of the company, regard shall be had to all relevant circumstances and, in particular, to the extent of the use of the machinery or plant for the purposes of the other trade, and there shall be made to or on the company, in respect of the other trade, an allowance of such an

amount, or a charge of such an amount, as may be just and reasonable. PT.1 S.53

Plant and machinery: change of use of tonnage tax asset

13. (1) This paragraph shall apply where, at a time when a company is subject to tonnage tax, machinery or plant acquired after the company became so subject and which is used wholly and exclusively for the purposes of the company's tonnage tax trade begins to be used wholly or partly for purposes of another trade.

(2) Where this paragraph applies—

(*a*) if the asset begins to be used wholly for purposes of another trade the provisions of Part 9 shall apply as if capital expenditure had been incurred by the person carrying on the other trade on the provision of the plant or machinery for the purposes of that trade in that person's chargeable period (within the meaning of Part 9) in which the plant or machinery is brought into use for those purposes, and the amount of that expenditure shall be taken as the lesser of—

(i) the amount of the capital expenditure actually incurred by the person, and

(ii) the price which the machinery or plant would have fetched if sold on the open market on the date on which it was so brought into use, and

(*b*) if the asset begins to be used partly for purposes of another trade of the company and partly for the purposes of the tonnage tax trade—

(i) the machinery or plant shall be treated as 2 separate assets one in use wholly and exclusively for the purposes of the tonnage tax trade and the other in use wholly and exclusively for the purposes of the other trade of the company,

(ii) Part 9 shall apply as if the company had incurred capital expenditure on the provision of that part of the asset treated as in use wholly and exclusively for the other trade of the company in the accounting period of the company in which that part of the asset is brought into use for those purposes, and

(iii) in determining the amount of any capital expenditure incurred on the provision of that part of the asset treated as in use as a separate asset for the purposes of the other trade of the company regard shall be had to all relevant circumstances as is just and reasonable.

Plant and machinery: change of use of non-tonnage tax asset

14. (1) This paragraph shall apply where, at a time when a company is subject to tonnage tax, plant or machinery wholly and exclusively used for the purposes of another trade carried

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on by the company not being a tonnage tax trade begins to be used wholly or partly for the purposes of the company's tonnage tax trade.

(2) Where this paragraph applies and the asset begins to be wholly used for the purposes of the company's tonnage tax trade—

(*a*) no balancing allowance or balancing charge shall be made as a consequence of the change in use, and

(*b*) for the purposes of making a balancing charge under section 288 on the happening subsequent to the change in use of any of the events referred to in subsection (1) of that section—

(i) section 296 shall not apply as respects any accounting period of the company in which the asset is used wholly and exclusively for the purposes of the company's tonnage tax trade,

(ii) where the event occurs at a time when the asset is so used, the amount of the capital expenditure of the company still unallowed at the time of the event shall, notwithstanding section 296, be the amount of the capital expenditure of the company on the provision of the machinery or plant which was still unallowed at the time the asset began to be so used, and

(iii) where the event occurs at a time when the asset is so used, the references in section 288 to sale, insurance, salvage or compensation moneys and the reference in section 289(3)(*b*) to the open-market value of the machinery or plant shall be taken to be references to the least of—

(I) the actual cost to the company of the machinery or plant for the purpose of the trade carried on by the company,

(II) the price the machinery or plant would have fetched if sold in the open market at the time the asset began to be so used, and

(III) the sale, insurance, salvage or compensation moneys (within the meaning of Part 9) arising on the event or, where paragraph (*b*) of section 289(3) applies, the open-market price of the machinery or plant (within the meaning of that section) at the time of the event.

(3) Where this paragraph applies and the asset begins to be partly used for the purposes of the company's tonnage tax trade—

(*a*) the machinery or plant referred to in subparagraph (1) shall be treated as 2 separate assets one in use wholly and exclusively for the purposes of the other trade of the company and the other in use wholly and exclusively for the purposes of the tonnage tax trade of the company,

(*b*) no balancing charge or balancing allowance shall be made in respect of the part treated as in use wholly and exclusively for the purposes of the tonnage tax trade as a consequence of the change in use, Pt.1 S.53

(*c*) subparagraph (2)(*b*) shall apply in relation to the part of the asset treated by virtue of this subparagraph as in use wholly and exclusively for the purposes of the tonnage tax trade as it applies in relation to the machinery or plant wholly used for the purposes of the company's tonnage tax trade.

Plant and machinery: provisions relating to balancing charges

15. (1) A balancing charge arising under Part 9 as applied by this Schedule or under this Schedule shall—

(*a*) be treated as arising in connection with a trade carried on by the company other than the company's tonnage tax trade, and

(*b*) be made in taxing that trade.

(2) Subject to paragraph 16 or 17, the charge shall be given effect in the accounting period in which it arises.

(3) On the first occasion of the happening of an event which gives rise to a balancing charge (including such an event arising in respect of more than one asset on the same date) under Part 9 as applied by this Schedule, or under this Schedule, on a tonnage tax company, the tonnage tax company shall by notice in writing to the Revenue Commissioners elect for relief against that charge under either paragraph 16 or, if applicable, paragraph 17 but not for relief under both, and any such election shall be irrevocable and be included in the company's return under section 951 for the accounting period in which the charge arises.

(4) Where a balancing charge arises on a tonnage tax company under Part 9 as applied by this Schedule or under this Schedule subsequent to any charge on the company such as is referred to in subparagraph (3), relief against that charge shall only be available under the paragraph for which the company elected for relief in accordance with that subparagraph.

(5) Relief under paragraph 16 or 17 shall not be available to a company unless the company has made an election under subparagraph (3).

Reduction in balancing charge by reference to time in tonnage tax

16. The amount of any balancing charge under Part 9 as applied by this Schedule or under this Schedule shall be reduced by 20 per cent of the amount of the charge for each whole year in which the company on which the charge is to be made has been subject to tonnage tax calculated by reference to the time of the event giving rise to the charge.

Set-off of accrued losses against balancing charge

17. Where a balancing charge under Part 9 as applied by this Schedule or under this Schedule arises in connection with the disposal of a qualifying ship, then the company may set off against any balancing charge so arising any losses (including any

losses referable to capital allowances treated by virtue of section 307 or 308 as trading expenses of the company) which accrued to the company before its entry to tonnage tax and which are attributable to—

(*a*) activities which under tonnage tax became part of the company's tonnage tax trade, or

(*b*) a source of income which under tonnage tax becomes relevant shipping income.

Deferment of balancing charge on re-investment

18. (1) Where—

(*a*) a balancing charge under Part 9 as applied by this Schedule arises in connection with the disposal of a qualifying ship, and

(*b*) within the period beginning on the date the company's election for tonnage tax takes effect and ending 5 years after the date of the event giving rise to the balancing charge, the company or another qualifying company which is a member of the same tonnage tax group as the company incurs capital expenditure on the provision of one or more other qualifying ships (in this paragraph referred to as the 'new asset'),

then

(i) if the amount on which the charge would have been made, as reduced under paragraph 16 or 17, if applicable, is greater than the capital expenditure on providing the new asset, the balancing charge shall be made only on an amount equal to the difference, and

(ii) if the capital expenditure on providing the new asset is equal to or greater than the amount on which the charge would have been made, as reduced under paragraph 16 or 17, if applicable, the balancing charge shall not be made.

(2) Where an event referred to in section 288(1) occurs in relation to the new asset in the period in which the company which incurs the expenditure on the new asset is subject to tonnage tax then a balancing charge shall be made under this paragraph on that company.

(3) Subject to any reduction under paragraph 16 or 17 and to any further application of this paragraph, the amount of the charge referred to in subparagraph (2) shall be—

(*a*) where subparagraph (1)(i) applies, the difference between the balancing charge which, but for subparagraph (1), would have been made on the disposal referred to in subparagraph (1) and the actual charge made,

(*b*) where subparagraph (1)(ii) applies, the amount of the charge which, but for subparagraph (1), would have been made on the disposal referred to in that subparagraph.

(4) Section 290 shall not apply in relation to balancing charges to which this paragraph applies. PT.1 S.53

(5) For the purposes of subparagraph (1), where machinery or plant is let to a tonnage tax company on the terms of that company being bound to maintain the machinery or plant and deliver it over in good condition at the end of the lease, and if the burden of the wear and tear on the machinery or plant will in fact fall directly on the company, then the capital expenditure on the provision of the machinery and plant shall be deemed to have been incurred by that company and the machinery and plant shall be deemed to belong to that company.

Exit: plant and machinery

19. (1) Where a company leaves tonnage tax the amount of capital expenditure incurred on the provision of machinery or plant in respect of each asset used by the company for the purposes of its tonnage tax trade which asset was acquired at a time the company was subject to tonnage tax and held by the company at the time it leaves tonnage tax shall be deemed to be the lesser of—

(*a*) the capital expenditure actually incurred by the company on the provision of that machinery or plant for the purposes of the company's tonnage tax trade, and

(*b*) the price the machinery or plant would have fetched if sold in the open market at the date the company leaves tonnage tax.

(2) For the purposes of the making of allowances and charges under Part 9 or any provision construed as one with that Part, the capital expenditure on the provision of the machinery or plant as determined in accordance with subparagraph (1) shall be deemed to have been incurred on the day immediately following the date the company leaves tonnage tax.

(3) (*a*) This subparagraph applies where a company—

(i) leaves tonnage tax having incurred expenditure on the provision of machinery or plant for the purposes of a trade carried on by the company before entry into tonnage tax,

(ii) has used that machinery or plant for the purposes of its tonnage tax trade,

(iii) has been denied allowances in respect of that machinery or plant by virtue of section 697O and the provisions of paragraph 10(1)(*b*)(ii) or paragraph 11(2)(*c*), and

(iv) on leaving tonnage tax starts, recommences or continues to use that machinery or plant for the purposes of a trade carried on by it.

(*b*) Subject to clauses (*c*) and (*d*), where this subparagraph applies any allowance which, but for section 697O and paragraph 10(1)(*b*) or 11(2)(*c*), would have been made under Part 9 or any provision construed as

one with that Part to the company for any accounting period in which it was subject to tonnage tax shall, subject to compliance with that Part, be made instead for such accounting periods immediately after the company leaves tonnage tax as will ensure, subject to that Part, that all such allowances are made to the company in those accounting periods as would have been made to the company in respect of that machinery or plant if the company had never been subject to tonnage tax.

(*c*) No wear and tear allowance shall be made by virtue of this subparagraph in respect of any machinery or plant for any accounting period of a company if such allowance when added to the allowances in respect of that machinery or plant made to that company for any previous accounting period will make the aggregate amount of the allowances exceed the actual cost to that company of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on the machinery or plant by means of renewal, improvement or reinstatement.

(*d*) A wear and tear allowance in respect of any machinery or plant made by virtue of this subparagraph for any accounting period shall not exceed the amount appropriate to that machinery or plant as set out in section 284(2).

Industrial buildings

20. (1) Where any identifiable part of a building or structure is used for the purposes of a company's tonnage tax trade, that part is treated for the purposes of Chapter 1 of Part 9 as used otherwise than as an industrial building or structure.

(2) (*a*) This subparagraph applies where, in an accounting period during which a company is subject to tonnage tax, an event giving rise to a balancing charge occurs in relation to an industrial building or structure in respect of which capital expenditure was incurred by the company before its entry into tonnage tax.

(*b*) Where this subparagraph applies—

(i) the sale, insurance, salvage or compensation moneys to be brought into account in respect of any industrial building or structure shall be limited to the market value of the relevant interest when the company entered tonnage tax, and

(ii) the amount of any balancing charge under that Part shall, subject to subparagraphs (3) to (5) of paragraph 15, be reduced in accordance with paragraph 16 or 17, as appropriate.

(3) Where a company subject to tonnage tax disposes of the relevant interest in an industrial building or structure, section 277 shall apply to determine the residue of expenditure in the hands of the person who acquires the relevant interest, as if—

(*a*) the company had not been subject to tonnage tax, and PT.1 S.53

(*b*) all writing-down allowances, and balancing allowances and charges, had been made as could have been made if the company had not been subject to tonnage tax.

(4) Where a company leaves tonnage tax the amount of capital expenditure qualifying for relief under Chapter 1 of Part 9 shall be determined as if—

(*a*) the company had never been subject to tonnage tax, and

(*b*) all such allowances and charges under that Part had been made as could have been made.

Part 4

Groups, Mergers and Related Matters

Company not to be treated as member of more than one group

21. (1) Where a company is a member of both a tonnage tax group and a non-tonnage tax group which if a group election had been made would have been a tonnage tax group (in this paragraph referred to as a qualifying non-tonnage tax group), the company shall be treated as a member of the tonnage tax group and not of the qualifying non-tonnage tax group.

(2) Where a company is a member of 2 tonnage tax groups, the company shall be treated as a member of the group whose tonnage tax election was made first and not of the other tonnage tax group. In the case of group elections made at the same time, the company shall choose which election it joins in and for the purposes of Part 24A and this Schedule the company shall be treated as a member of the group in respect of which that election is made and not of any other tonnage tax group.

Arrangements for dealing with group matters

22. (1) The Revenue Commissioners may enter into arrangements with the qualifying companies in a group for one of those companies to deal on behalf of the group in relation to matters arising under Part 24A and this Schedule that may conveniently be dealt with on a group basis.

(2) Any such arrangements—

(*a*) may make provision in relation to cases where companies become or cease to be members of a group;

(*b*) may make provision for or in connection with the termination of the arrangements; and

(*c*) may make such supplementary, incidental, consequential or transitional provision as is necessary or expedient for the purposes of the arrangements.

(3) Any such arrangements shall not affect—

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(*a*) any requirement under Part 24A and this Schedule that an election be made jointly by all the qualifying companies in the group; or

(*b*) any liability under Part 24A, this Schedule or any other provision of the Tax Acts of a company to which the arrangements relate.

Meaning of 'merger' and 'demerger'

23. (1) In this Schedule—

'merger' means a transaction by which one or more companies become members of a group, and

'demerger' means a transaction by which one or more companies cease to be members of a group.

(2) References to a merger to which a group is a party include any merger affecting a member of the group.

Merger: between tonnage tax groups or companies

24. (1) This paragraph shall apply where there is a merger—

(*a*) between 2 or more tonnage tax groups,

(*b*) between one or more tonnage tax groups and one or more tonnage tax companies, or

(*c*) between two or more tonnage tax companies.

(2) Where this paragraph applies the group resulting from the merger is a tonnage tax group as if a group election had been made.

(3) The deemed election referred to in subparagraph (2) continues in force, subject to the provisions of this Part, until whichever of the existing tonnage tax elections had the longest period left to run would have expired.

Merger: tonnage tax group/ company and qualifying non-tonnage tax group/ company

25. (1) This paragraph shall apply where there is a merger between a tonnage tax group or company and a qualifying non-tonnage tax group or company.

(2) Where this paragraph applies the group resulting from the merger may elect that—

(*a*) it be treated as if a group election had been made which deemed election shall continue in force until the original election made by the tonnage tax group or company would have expired, or

(*b*) the tonnage tax election of the group or company ceases to be in force as from the date of the merger.

(3) Any election under subparagraph (2) shall be made jointly by all the qualifying companies in the group resulting

from the merger and by way of notice in writing to the Revenue Commissioners within 12 months of the merger. PT.1 S.53

Merger: tonnage tax group or company and non-qualifying group or company

26. (1) This paragraph shall apply where there is a merger between a tonnage tax group or company and a non-qualifying group or company.

(2) Where this subsection applies the group resulting from the merger is a tonnage tax group by virtue of the election of the tonnage tax group or company.

Merger: non-qualifying group or company and qualifying non-tonnage tax group or company

27. (1) This paragraph shall apply where there is a merger between a non-qualifying group or company and a qualifying non-tonnage tax group or company.

(2) Where this paragraph applies, the group resulting from the merger may make a tonnage tax election having effect as from the date of the merger.

(3) Any such election shall be made jointly by all the qualifying companies in the group resulting from the merger, by notice in writing to the Revenue Commissioners, within 12 months of the merger.

Demerger: single company

28. (1) This paragraph shall apply where a tonnage tax company ceases to be a member of a tonnage tax group and does not become a member of another group.

(2) Where this paragraph applies—

(*a*) the company in question remains a tonnage tax company as if a single company election had been made, and

(*b*) that deemed election continues in force, subject to the provisions of this Schedule, until the group election would have expired.

(3) If 2 or more members of the previous group remain, and any of them is a qualifying company, the group consisting of those companies shall be a tonnage tax group by virtue of the previous group election.

Demerger: group

29. (1) This paragraph shall apply where a tonnage tax group splits into two or more groups.

(2) Where this paragraph applies each new group that contains a qualifying company that was a tonnage tax company before the demerger shall be a tonnage tax group as if a group election had been made.

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(3) That deemed election continues in force, subject to the provisions of this Schedule, until the group election would have expired.

Duty to notify Revenue Commissioners of group changes

30. (1) A tonnage tax company that becomes or ceases to be a member of a group, or of a particular group, shall give notice in writing to the Revenue Commissioners of that fact.

(2) The notice shall be given within the period of 12 months beginning with the date on which the company became or ceased to be a member of the group.

Part 5

Miscellaneous and supplemental

Measurement of tonnage of ship

31. (1) References in Part 24A and in this Schedule to the gross or net tonnage of a ship are to that tonnage as determined—

(*a*) in the case of a vessel of 24 metres in length or over, in accordance with the IMO International Convention on Tonnage Measurement of Ships 1969;

(*b*) in the case of a vessel under 24 metres in length, in accordance with tonnage regulations.

(2) A ship shall not be treated as a qualifying ship for the purposes of this Part and this Schedule unless there is in force—

(*a*) a valid International Tonnage Certificate (1969), or

(*b*) a valid certificate recording its tonnage as measured in accordance with tonnage regulations.

(3) In this paragraph 'tonnage regulations' means regulations under section 91 of the Mercantile Marine Act, 1955 or the provisions of the law of a country or territory outside the State corresponding to those regulations.

Second or subsequent application of sections 697P and 697Q

32. Where sections 697P and 697Q apply on a second or subsequent occasion on which a company ceases to be a tonnage tax company (whether or not those sections applied on any of the previous occasions)—

(*a*) the references to the company ceasing to be a tonnage tax company shall be read as references to the last occasion on which it did so, and

(*b*) the references to the period during which the company was a tonnage tax company do not include any period before its most recent entry into tonnage tax.

Appeals

33. Where in Part 24A and in this Schedule there is provision for the determination of any matter on a just and reasonable basis and it is not possible for the company concerned and the

appropriate inspector (within the meaning of section 950) to agree on what is just and reasonable in the circumstances then there shall be the right of appeal to the Appeal Commissioners in the like manner as an appeal would lie against an assessment to corporation tax and the provisions of the Tax Acts relating to appeals shall apply accordingly.

Delegation of powers and functions

34. The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by Part 24A or this Schedule to be performed or discharged by the Revenue Commissioners.''.

(3) The Principal Act is amended in subsection (1A) of section 21 by inserting the following after paragraph (*b*):

''(*c*) Notwithstanding subsection (1), for the financial year 2002, in relation to a tonnage tax company (within the meaning of Part 24A), tonnage tax profits shall be charged to corporation tax at the rate of $12\frac{1}{2}$ per cent.''.

(4) Schedule 29 of the Principal Act is amended by inserting ''Schedule 18B, paragraph 30'' after ''Schedule 18, paragraph 1(2)'' in column 2.

(5) This section shall come into operation on such day as the Minister for Finance may by order appoint.

Relief for certain losses on a value basis.

54.—(1) The Principal Act is amended—

(*a*) in Part 8 by inserting the following after section 243A:

''Relief for certain charges on income on a value basis.

243B.—(1) In this section—

'charges on income paid for the purposes of the sale of goods' has the same meaning as in section 454;

'relevant corporation tax', in relation to an accounting period of a company, means the corporation tax which, apart from this section and sections 239, 241, 396B, 420B, 440 and 441, would be chargeable on the company for the accounting period;

'relevant trading charges on income' has the same meaning as in section 243A.

(2) Where a company pays relevant trading charges on income in an accounting period and the amount so paid exceeds an amount equal to the aggregate of the amounts allowed as deductions against—

(*a*) the income of the company in accordance with section 243A, and

(*b*) the income from the sale of goods in accordance with section 454,

of the company for the accounting period, the company may claim relief under this section for the accounting period in respect of the excess.

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(3) Where for any accounting period a company claims relief under this section in respect of the excess, the relevant corporation tax of the company for the accounting period shall be reduced—

(*a*) in so far as the excess consists of charges on income paid for the purpose of the sale of goods (within the meaning of section 454), by an amount equal to 10 per cent of those charges on income paid for the purpose of the sale of goods, and

(*b*) in so far as the excess consists of charges on income (in this section referred to as 'other relevant trading charges on income') which are not charges on income paid for the purposes of the sale of goods (within the meaning of section 454), by an amount determined by the formula—

$$C \times \frac{R}{100}$$

where—

C is the amount of the other relevant trading charges on income, and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.

(4) (*a*) Where a company makes a claim for relief under this section in respect of any relevant trading charges on income paid in an accounting period, an amount (which shall not exceed the amount of the excess in respect of which a claim under this section may be made), determined in accordance with paragraph (*b*), shall be treated for the purposes of the Tax Acts as relieved under this section.

(*b*) Subject to paragraph (*c*), the amount determined in accordance with this paragraph in relation to an accounting period is an amount equal to the aggregate of the following amounts:

(i) where relief is given under paragraph (*a*) of subsection (3) for the accounting period, an amount equal to 10 times the amount by which the relevant corporation tax for the accounting period is reduced by virtue of that paragraph, and

(ii) where relief is given under paragraph (*b*) of subsection (3) for the accounting period, an amount determined by the formula—

$$T \times \frac{100}{R}$$

where—

T is the amount by which the relevant corporation tax for the accounting period is reduced by virtue of that paragraph, and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.'',

(*b*) in Part 12—

(i) in section 396—

(I) in subsection (1), by substituting ''subsection (2) or section 396A(3), 396B(2) or 455(3)'' for ''subsection (2) or section 455(3)'', and

(II) in subsection (7), by inserting ''net of any part of those charges relieved under section 243B'' after ''a company'',

(ii) by inserting the following after section 396A:

''Relief for certain trading losses on a value basis.

396B.—(1) In this section—

'relevant corporation tax', in relation to an accounting period of a company, means the corporation tax which, apart from this section and sections 239, 241, 420B, 440 and 441, would be chargeable on the company for the accounting period;

'relevant trading loss' has the same meaning as in section 396A but does not include any amount which is the relevant amount of the loss for the purposes of section 403(4).

(2) Where in any accounting period a company carrying on a trade incurs a relevant trading loss and the amount of the loss exceeds an amount equal to the aggregate of the amounts set off in respect of that loss for the purposes of corporation tax against—

(*a*) income of the company of that accounting period and any preceding accounting period in accordance with section 396A(3), and

(*b*) income of the company from the sale of goods of that accounting period and any preceding accounting period in accordance with section 455(3),

the company may claim relief under this section in respect of the excess.

(3) Where for any accounting period a company claims relief under this section in respect of the excess, the relevant corporation tax of the company for that

accounting period and, if the company was then carrying on the trade and the claim so requires, for preceding accounting periods ending within the time specified in subsection (4), shall be reduced—

(*a*) in so far as the excess consists of a loss from the sale of goods (within the meaning of section 455), by an amount equal to 10 per cent of the loss from the sale of goods, and

(*b*) in so far as the excess consists of a loss (in this section referred to as the 'remainder of the relevant trading loss') which is not a loss from the sale of goods (within the meaning of section 455), by an amount determined by the formula—

$$L \times \frac{R}{100}$$

where—

L is the amount of the remainder of the relevant trading loss, and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.

(4) For the purposes of subsection (3), the time referred to in that subsection shall be the time immediately preceding the accounting period first mentioned in subsection (3) equal in length to that accounting period; but the amount of the reduction which may be made under subsection (3) in the relevant corporation tax for an accounting period falling partly before that time shall not exceed such part of that relevant corporation tax as bears to the whole of that relevant corporation tax the same proportion as the part of the accounting period falling within that time bears to the whole of that accounting period.

(5) (*a*) Where a company makes a claim for relief for any accounting period under this section in respect of any relevant trading loss incurred in a trade in an accounting period, an amount (which shall not exceed the amount of the excess in respect of which a claim under this section may be made), determined in accordance with paragraph (*b*), shall be treated for the purposes of the Tax Acts as an amount of loss relieved against profits of that accounting period.

(*b*) Subject to paragraph (*c*), the amount determined in accordance with this paragraph in relation to an accounting period is an amount equal to the aggregate of the following amounts:

(i) where relief is given under paragraph (*a*) of subsection (3) for the accounting period, an amount equal to 10 times

the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of that paragraph, and

(ii) where relief is given under paragraph (*b*) of subsection (3) for the accounting period, an amount determined by the formula—

$$T \times \frac{100}{R}$$

where—

T is the amount by which the relevant corporation tax payable is reduced by virtue of subsection (3)(*b*), and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.

(*c*) (i) In this paragraph 'relevant amount' means an amount (not being an amount incurred by a company for the purposes of a trade carried on by it) of charges on income, expenses of management or other amount (not being an allowance to which effect is given under section 308(4)) which is deductible from, or may be treated as reducing, profits of more than one description.

(ii) For the purposes of paragraph (*b*), where as respects an accounting period of a company a relevant amount is deductible from, or may be treated as reducing, profits of more than one description, the amount by which corporation tax is reduced by virtue of subsection (3) shall be deemed to be the amount by which it would have been reduced if no relevant amount were so deductible or so treated.'',

and

(iii) by inserting the following after section 420A:

"Group relief: Relief for certain losses on a value basis.

420B.—(1) In this section—

'relevant corporation tax', in relation to an accounting period of a company means the corporation tax which, apart from this section and sections 239, 241, 440 and 441, would be chargeable on the company for the accounting period;

'relevant trading charges on income' has the same meaning as in section 243A;

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'relevant trading loss' has the same meaning as in section 396A but does not include any amount which is the relevant amount of the loss for the purposes of section 403(4).

(2) Where in any accounting period the surrendering company has incurred a relevant trading loss, computed as for the purposes of section 396(2), or an excess of relevant trading charges on income, in carrying on a trade in respect of which the company is within the charge to corporation tax, and the amount of the loss or excess is greater than an amount equal to the aggregate of the amounts set off in respect of that loss or excess for the purposes of corporation tax against—

(*a*) the income of the company in accordance with section 243A, 396A or 420A, and

(*b*) the income from the sale of goods in accordance with section 455 or 456,

of the claimant company for its corresponding accounting period, the claimant company may claim relief under this section for that corresponding accounting period in respect of the amount (in this section referred to as the 'relievable loss') by which the loss or excess is greater than that aggregate.

(3) Where for any accounting period a company claims relief under this section in respect of a relievable loss, the relevant corporation tax of the company for the accounting period shall be reduced—

(*a*) in so far as the relievable loss consists of a loss from the sale of goods (within the meaning of section 455) or charges on income paid for the sale of goods (within the meaning of section 454), by an amount equal to 10 per cent of that loss from the sale of goods or those charges on income from the sale of goods, and

(*b*) in so far as the relievable loss consists of a loss or charges on income (in this section referred to as the 'remainder of the loss or charges') which is not a loss or charge on income of the type mentioned in paragraph (*a*), by an amount determined by the formula—

$$L \times \frac{R}{100}$$

where—

L is an amount equal to the remainder of the loss or charges, and

R is the rate per cent specified in section 21 in relation to the accounting period.

(4) (*a*) Where for any accounting period a company claims relief under this section in respect of

any relevant trading loss or excess of relevant trading charges on income, the surrendering company shall be treated as having surrendered, and the claimant company shall be treated as having claimed relief for, trading losses and charges on income of an amount determined in accordance with paragraph (*b*).

(*b*) The amount determined in accordance with this paragraph is an amount equal to the aggregate of the following amounts:

(i) where relief is given under paragraph (*a*) of subsection (3) for the accounting period, an amount equal to 10 times the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of that paragraph, and

(ii) where relief is given under paragraph (*b*) of subsection (3) for the accounting period, an amount determined by the formula—

$$T \times \frac{100}{R}$$

where—

T is the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of subsection (3)(*b*), and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.'',

and

(*c*) in section 454(2) by inserting ''(within the meaning of section 243A)'' after ''relevant trading income''.

(2) For the purposes of computing the amount of—

(*a*) charges on income paid for the purposes of the sale of goods (within the meaning of section 454 of the Principal Act),

(*b*) a loss from the sale of goods (within the meaning of section 455 of the Principal Act),

(*c*) relevant trading charges on income (within the meaning of section 243A of the Principal Act), and

(*d*) relevant trading losses (within the meaning of section 396A of the Principal Act),

in respect of which relief may be claimed by virtue of this section, where an accounting period of a company begins before 6 March 2001 and ends on or after that date, it shall be divided into 2 parts,

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one beginning on the date on which the accounting period begins and ending on 5 March 2001 and the other beginning on 6 March 2001 and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.

(3) This section applies as respects an accounting period ending on or after 6 March 2001.

Amendment of section 90 (restriction of certain losses and charges) of Finance Act, 2001.

55.—Section 90 of the Finance Act, 2001 shall apply, and be deemed always to have applied, as if the following were substituted for subsection (4):

''(4) (*a*) For the purposes of—

(i) computing the amount of—

(I) relevant trading charges on income within the meaning of section 243A of the Principal Act, and

(II) relevant trading losses within the meaning of section 396A of the Principal Act,

and

(ii) this section insofar as it applies to sections 454 and 456 of the Principal Act,

where an accounting period of a company begins before 6 March 2001 and ends on or after that date, it shall be divided into 2 parts, one beginning on the date on which the accounting period begins and ending on 5 March 2001 and the other beginning on 6 March 2001 and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.

(*b*) For the purposes of computing the amount of—

(i) charges on income paid for the purposes of the sale of goods within the meaning of section 454 of the Principal Act, and

(ii) a loss from the sale of goods within the meaning of section 455 of the Principal Act,

where an accounting period of a company begins before 1 January 2003 and ends on or after that date, it shall be divided into two parts, one beginning on the date on which the accounting period begins and ending on 31 December 2002 and the other beginning on 1 January 2003 and ending on the date which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company.''.

Amendment of section 483 (relief for certain gifts) of Principal Act.

56.—(1) Section 483 of the Principal Act is amended by inserting the following after subsection (4):

''(5) The Tax Acts shall apply to a loss referred to in subsection (4) as they would apply if sections 396A and 420A had not been enacted.''.

(2) This section applies from 6 March 2001.

Credit for certain withholding tax.

57.—Schedule 24 to the Principal Act (which is amended by *section 38*) is further amended—

(*a*) in paragraph 4(5)—

(i) in clause (*a*) by substituting ''this paragraph, paragraph 9D'' for ''this paragraph'', and

(ii) in clause (*b*)—

(I) in subclause (ii) by deleting ''and'',

(II) in subclause (iii) by inserting ''and'' after ''that section,'', and

(III) by inserting the following after subclause (iii):

''(iv) the amount of income of a company treated for the purposes of paragraph 9D as referable to an amount of relevant interest (within the meaning of that paragraph)'',

(*b*) in paragraph 9A(5)(*b*) by substituting ''section 449 or paragraph 9D'' for ''section 449'', and

(*c*) by inserting the following after paragraph 9C:

''9D.—(1) (*a*) In this paragraph—

'relevant foreign tax', in relation to interest receivable by a company, means tax—

(i) which under the laws of any foreign territory has been deducted from the amount of the interest,

(ii) which corresponds to income tax or corporation tax,

(iii) which has not been repaid to the company,

(iv) for which credit is not allowable under arrangements, and

(v) which, apart from this paragraph, is not treated under this Schedule as reducing the amount of income;

'relevant interest' means interest receivable by a company which interest falls to be taken into account in computing the trading income of a trade carried on by the company.

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(*b*) For the purposes of this paragraph—

(i) the amount of corporation tax which apart from this paragraph would be payable by a company for an accounting period and which is attributable to an amount of relevant interest shall be an amount equal to—

(I) in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2002, 16 per cent, and

(II) in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2003 or any subsequent financial year, 12.5 per cent,

of the amount of the income of the company referable to the amount of the relevant interest, and

(ii) the amount of any income of a company referable to an amount of relevant interest in an accounting period shall, subject to paragraph 4(5), be taken to be such sum as bears to the total amount of the trading income of the company for the accounting period the same proportion as the amount of relevant interest in the accounting period bears to the total amount receivable by the company in the course of the trade in the accounting period.

(2) Where, as respects an accounting period of a company, the trading income of a trade carried on by the company includes an amount of relevant interest, the amount of corporation tax which, apart from this paragraph, would be payable by the company for the accounting period shall be reduced by so much of—

(*a*) in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2002, 84 per cent, and

(*b*) in so far as it is corporation tax charged on profits which under section 26(3) are apportioned to the financial year 2003 or any subsequent financial year, 87.5 per cent,

of any relevant foreign tax borne by the company in respect of relevant interest in that period as does not exceed the corporation tax which would be so payable and which is attributable to the amount of the relevant interest.

(3) (*a*) This paragraph shall not apply as respects any accounting period of a company which is a relevant accounting period within the meaning of section 442.

(*b*) Subsection (2) of section 442 shall apply for the purposes of this paragraph as it applies for the purposes of Part 14.''. Pt.1 S.57

Amendment of section 958 (date for payment of tax) of Principal Act.

58.—Section 958 (as amended by the Finance Act, 2001) of the Principal Act is amended—

(*a*) by substituting the following for subsection (1):

''(1) (*a*) In this section—

'corresponding corporation tax for the preceding chargeable period', in relation to a chargeable period which is an accounting period of a company, means an amount determined by the formula—

$$T \times \frac{C}{P}$$

where—

T is the corporation tax payable by the chargeable person for the preceding chargeable period,

C is the number of months in the chargeable period, and

P is the number of months in the preceding chargeable period;

'pre-preceding chargeable period', in relation to a chargeable period, means the chargeable period next before the preceding chargeable period;

'relevant limit', in relation to a chargeable period which is an accounting period of a company, means €50,000; but where the length of a chargeable period is less than 12 months the relevant limit in relation to the chargeable period shall be proportionately reduced.

(*b*) For the purposes of this section, a chargeable person being a company shall be a small company in relation to a chargeable period if the corresponding corporation tax for the preceding chargeable period payable by the chargeable person does not exceed the relevant limit in relation to the accounting period.'',

(*b*) by substituting the following for subsection (2):

''(2) Subject to subsection (10), preliminary tax appropriate to a chargeable period which is a year of assessment for income tax shall be due and payable on or before 31 October in the year of assessment and, accordingly, references in this Part to the due date for the payment of an amount of preliminary tax shall, in the case

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where that tax is due for a chargeable period which is a year of assessment, be construed as a reference to 31 October in the year of assessment.

(2A) (*a*) Preliminary tax appropriate to a chargeable period which is an accounting period of a company ending in the period from 1 January 2002 to 31 December 2005 shall be due and payable in 2 instalments.

(*b*) The first of the 2 instalments referred to in paragraph (*a*) (in this section referred to as the 'first instalment') shall be due and payable not later than the day which is 31 days before the day on which the accounting period ends; but where that day is later than day 28 of the month in which the first-mentioned day occurs, the first instalment shall be due and payable not later than day 28 of that month or such earlier day in that month as may be specified by order made by the Minister for Finance.

(*c*) Notwithstanding paragraph (*b*), in the case where an accounting period of a company is less than one month and one day in length, the first instalment shall be due and payable not later than the last day of the accounting period; but where that day is later than day 28 of the month in which that day occurs, the first instalment shall be due and payable not later than day 28 of that month or such earlier day in that month as may be specified by order made by the Minister for Finance.

(*d*) Notwithstanding paragraphs (*b*) and (*c*), in the case of an accounting period of a company ending in the year 2002, the first instalment shall not be due and payable earlier than 28 June 2002.

(*e*) The second of the 2 instalments referred to in paragraph (*a*) (in this section referred to as the 'second instalment') shall be due and payable within the period of 6 months from the end of the accounting period, but in any event not later than day 28 of the month in which that period of 6 months ends, or such earlier day in that month as may be specified by order made by the Minister for Finance.

(2B) (*a*) Preliminary tax appropriate to a chargeable period which is an accounting period of a company ending on or after 1 January 2006 shall be due and payable not later than the day which is 31 days before the day on which the accounting period ends; but where that day is later than day 28 of the month in which the first-mentioned

day occurs, that tax shall be due and payable not later than day 28 of that month or such earlier day in that month as may be specified by order made by the Minister for Finance.

(*b*) Notwithstanding paragraph (*a*), in the case where an accounting period of a company ending on or after 1 January 2006 is less than one month and one day in length, preliminary tax shall be due and payable not later than the last day of the accounting period; but where that day is later than day 28 of the month in which that day occurs, preliminary tax shall be due and payable not later than day 28 of that month or such earlier day in that month as may be specified by order made by the Minister for Finance.

(2C) (*a*) References in this Part to the due date for the payment of the first instalment, or the second instalment, of preliminary tax shall be construed in accordance with subsection (2A).

(*b*) References in this Part to the due date for the payment of an amount of preliminary tax shall, in the case where that tax is due for a chargeable period which is an accounting period of a company ending on or after 1 January 2006, be construed in accordance with subsection (2B).'',

(*c*) in subsection (3), by substituting ''subsections (3A), (4), (4B), (4C), (4D) and (4E)'' for ''subsections (3A) and (4)'',

(*d*) in subsection (4), by inserting ''which is a year of assessment'' after ''chargeable period'' where it first occurs, and

(*e*) by inserting the following after subsection (4A):

''(4B) (*a*) Subject to subsection (4D), where but for this subsection tax payable by a chargeable person for a chargeable period which is an accounting period of a company ending in the period from 1 January 2002 to 31 December 2005 would be due and payable in accordance with subsection (3), and—

(i) the chargeable person has defaulted in the payment of the first instalment or the second instalment of preliminary tax for the chargeable period,

(ii) where the chargeable person is a small company in relation to the accounting period, the first instalment of the preliminary tax paid by the chargeable person for the

chargeable period is less than, or less than the lower of—

(I) where the chargeable period is an accounting period of the company ending in the year 2002, 18 per cent of the tax payable by the chargeable person for the chargeable period or 20 per cent of the corresponding corporation tax for the preceding chargeable period,

(II) where the chargeable period is an accounting period of the company ending in the year 2003, 36 per cent of the tax payable by the chargeable person for the chargeable period or 40 per cent of the corresponding corporation tax for the preceding chargeable period,

(III) where the chargeable period is an accounting period of the company ending in the year 2004, 54 per cent of the tax payable by the chargeable person for the chargeable period or 60 per cent of the corresponding corporation tax for the preceding chargeable period, or

(IV) where the chargeable period is an accounting period of the company ending in the year 2005, 72 per cent of the tax payable by the chargeable person for the chargeable period or 80 per cent of the corresponding corporation tax for the preceding chargeable period,

(iii) where the chargeable person is not a small company in relation to the accounting period, the first instalment of the preliminary tax paid by the chargeable person for the chargeable period is less than—

(I) where the chargeable period is an accounting period of the company ending in the year 2002, 18 per cent,

(II) where the chargeable period is an accounting period of the company ending in the year 2003, 36 per cent,

(III) where the chargeable period is an accounting period of the company ending in the year 2004, 54 per cent, or

(IV) where the chargeable period is an accounting period of the company ending in the year 2005, 72 per cent,

of the tax payable by the chargeable person for the chargeable period,

(iv) the aggregate of the first instalment and the second instalment of 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

(v) the first instalment or the second instalment of the preliminary tax payable by the chargeable person for the chargeable period was not paid by the date on which it was due and payable,

then the tax payable by the chargeable person for the chargeable period shall be deemed to have been due and payable in accordance with paragraph (*b*).

(*b*) (i) Tax due and payable in accordance with this paragraph by a chargeable person for a chargeable period which is an accounting period of a company shall be due and payable in 2 instalments.

(ii) The first of the 2 instalments referred to in subparagraph (i) (in this paragraph and in paragraphs (*c*) and (*d*) referred to as the 'first relevant instalment') shall be due and payable not later than the day on which the first instalment of preliminary tax is due and payable in accordance with subsection (2A).

(iii) The second of the 2 instalments referred to in subparagraph (i) (in this paragraph and in paragraphs (*c*) and (*d*) referred to as the 'second relevant instalment') shall be due and payable not later than the day on which the second instalment of preliminary tax is due and payable in accordance with subsection (2A).

(*c*) The amount of the first relevant instalment shall be—

(i) where the chargeable period is an accounting period of the company ending in the year 2002, 20 per cent,

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(ii) where the chargeable period is an accounting period of the company ending in the year 2003, 40 per cent,

(iii) where the chargeable period is an accounting period of the company ending in the year 2004, 60 per cent, and

(iv) where the chargeable period is an accounting period of the company ending in the year 2005, 80 per cent,

of the tax payable by the chargeable person for the chargeable period.

(*d*) The amount of the second relevant instalment shall be an amount equal to the excess of the tax payable by the chargeable person for the chargeable period over the amount of the first relevant instalment.

(4C) Subject to subsection (4E), where but for this subsection tax payable by a chargeable person for a chargeable period which is an accounting period of a company ending on or after 1 January 2006 would be due and payable in accordance with subsection (3), and—

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

(*b*) the preliminary tax paid by the chargeable person for the chargeable period is—

(i) where the chargeable person is a small company in relation to the accounting period, less than, or less than the lower of—

(I) 90 per cent of the tax payable by the chargeable person for the chargeable period, or

(II) the corresponding corporation tax for the preceding chargeable period,

and

(ii) where the chargeable person is not a small company in relation to the accounting period, less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

or

(*c*) the preliminary tax payable by the chargeable person for the chargeable period

was not paid by the date on which it was due and payable,

then the tax payable by the chargeable person for the chargeable period 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.

(4D) Where as respects a chargeable period which is an accounting period of a company ending in the period 1 January 2002 to 31 December 2005—

(*a*) the first instalment of preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2A) is less than—

(i) where the chargeable period is an accounting period ending in 2002, 18 per cent,

(ii) where the chargeable period is an accounting period ending in 2003, 36 per cent,

(iii) where the chargeable period is an accounting period ending in 2004, 54 per cent, or

(iv) where the chargeable period is an accounting period ending in 2005, 72 per cent,

of the tax payable by the chargeable person for the chargeable period,

(*b*) the preliminary tax so paid by the chargeable person for the chargeable period is not less than—

(i) where the chargeable period is an accounting period ending in 2002, 18 per cent,

(ii) where the chargeable period is an accounting period ending in 2003, 36 per cent,

(iii) where the chargeable period is an accounting period ending in 2004, 54 per cent, or

(iv) where the chargeable period is an accounting period ending in 2005, 72 per cent,

of the amount which would be payable by the chargeable person for the chargeable period if no amount were included in the chargeable person's profits for the

chargeable period in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which the first instalment for the chargeable period is payable in accordance with subsection (2A),

(*c*) the chargeable person makes a further payment of preliminary tax for the chargeable period within one month after the end of the chargeable period and the aggregate of that payment and the first instalment paid by the chargeable person for the chargeable period in accordance with subsection (2A) is not less than the percentage specified in paragraph (*a*) in relation to the chargeable period of the tax payable by the chargeable person for the chargeable period, and

(*d*) the aggregate of those payments and the second instalment paid by the chargeable person for the chargeable period in accordance with subsection (2) is not less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

then the preliminary tax paid by the chargeable person for the chargeable period shall be treated for the purposes of subsection (4B) as having been paid by the date by which it is due and payable.

(4E) Where as respects a chargeable period which is an accounting period of a company ending on or after 1 January 2006—

(*a*) the preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2B) is less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

(*b*) the preliminary tax so paid by the chargeable person for the chargeable period is not less than 90 per cent of the amount which would be payable by the chargeable person for the chargeable period if no amount were included in the chargeable person's profits for the chargeable period in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which preliminary tax for the chargeable period is payable in accordance with subsection (2B), and

(*c*) the chargeable person makes a further payment of preliminary tax for the chargeable period within one month after the

end of the chargeable period and the aggregate of that payment and the preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2B) is not less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

then the preliminary tax paid by the chargeable person for the chargeable period shall be treated for the purposes of subsection (4C) as having been paid by the date by which it is due and payable.''.

CHAPTER 5

Capital Gains Tax

Amendment of section 598 (disposal of business or farm on ''retirement'') of Principal Act.

59.—Section 598(1) of the Principal Act is amended in the definition of ''qualifying assets'' by substituting the following for paragraphs (ii) and (iii):

''(ii) (I) the shares or securities, which the individual has owned for a period of not less than 10 years ending with the disposal, being shares or securities of a relevant company that is a company—

(A) which has been a trading company, or a farming company, and the individual's family company, or

(B) which has been a member of a trading group, of which the holding company is the individual's family company,

during a period of not less than 10 years ending with the disposal and the individual has been a working director of the relevant company for a period of not less than 10 years during which period he or she has been a full-time working director of the relevant company for a period of not less than 5 years, and

(II) land, machinery or plant (if any) which the individual has owned for a period of not less than 10 years ending with the disposal, and which—

(A) was used throughout that period for the purposes of the relevant company, and

(B) is disposed of at the same time and to the same person as the shares or securities referred to in subparagraph (I),

(iii) land used for the purposes of farming carried on by the individual which he or she has owned and used for that purpose for a period of not less than 10 years ending with the transfer of an interest in that land for the purposes of complying with the terms of the Scheme, and

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(iv) land which has been let by the individual at any time in the period of 5 years ending with the disposal, where—

(I) immediately before the time the land was first let in that period, the land was owned by the individual and used for the purposes of farming carried on by the individual for a period of not less than 10 years ending at that time, and

(II) the disposal is a disposal referred to in section 652(5)(*a*);''.

Amendment of section 600A (replacement of qualifying premises) of Principal Act.

60.—Section 600A of the Principal Act is amended in subsection (1)—

(*a*) in the definition of ''qualifying premises'' by substituting the following for paragraph (*a*):

''(*a*) in which there is one or more residential units,'',

and

(*b*) in the definition of ''replacement premises'' by substituting the following for paragraph (*b*):

''(*b*) in which the number of residential units is—

(i) not less than 3, and

(ii) not less than the number of residential units in the qualifying premises,''.

Amendment of section 605 (disposals to authority possessing compulsory purchase powers) of Principal Act.

61.—Section 605 of the Principal Act is amended—

(*a*) in subsection (1), by substituting the following for paragraph (*c*):

''(*c*) subject to subsection (4A), the original assets and the replacement assets are within one, and the same one, of the classes of assets specified in subsection (5),'',

and

(*b*) by inserting the following after subsection (4):

''(4A) Where the original assets is land which has been let by the person making the disposal at any time in the period of 5 years ending with the disposal and, immediately before the time the land was first let in that period, the land was owned by that person and used by that person for farming (within the meaning of section 654) for a period of not less than 10 years ending with the time the land was first so let, the land may be treated as being within Class 1, which is referred to in subsection (5).''.

Amendment of section 542 (time of disposal and acquisition) of Principal Act.

62.—Section 542(1) of the Principal Act is amended by inserting the following after paragraph (*c*):

''(*d*) Notwithstanding paragraph (*c*), for the purposes of the Capital Gains Tax Acts where a person who is engaged in farming (within the meaning of section 654) disposes of an interest in land to an authority possessing compulsory purchase powers, for the purposes mentioned in section 652(5)(*a*), and immediately before the disposal the land was used for the purposes of farming, the chargeable gain (if any) on the disposal shall be deemed to accrue in the year of assessment in which the person receives the consideration for the disposal.''.

Amendment of section 980 (deduction from consideration on disposal of certain assets) of Principal Act.

63.—Section 980 of the Principal Act is amended in subsection (3) by substituting ''€500,000'' for ''€381,000''.

PART 2

Excise

Chapter 1

Consolidation and Modernisation of Betting Duties Law

Interpretation (*Chapter 1*).

64.—In this Chapter, save where the context otherwise requires—

''duty'' means, other than in *sections 65* and *66*, the duty of excise imposed by *section 67*;

''premises'' has the same meaning as it has in the Betting Act, 1931;

''proprietor'' has the same meaning as it has in the Betting Act, 1931;

''register'' means the register of bookmaking offices kept by the Revenue Commissioners under the Betting Act, 1931;

''registered premises'' has the same meaning as it has in the Betting Act, 1931, and

''totalisator'' has the same meaning as it has in the Totalisator Act, 1929.

Bookmaker's Licence Duty.

65.—There shall be charged, levied and paid for and upon every licence to act and carry on business as a bookmaker issued under the Betting Act, 1931, and on the renewal of every such licence, an excise duty of €250.

Registered Bookmaking Premises Duty.

66.—(1) An excise duty of €380 shall be charged, levied and paid on the registration and also on every renewal of the registration of any premises in the register of premises maintained by the Revenue Commissioners under the Betting Act, 1931, in which the business of bookmaking is carried on.

(2) The duty imposed by this section shall be charged and levied on and shall be paid by the person who is entered in such register as the proprietor of the premises concerned.

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(3) Where the excise duty of €380 imposed by this section, has been paid in respect of the registration or the renewal of the registration of any premises in the said register for any year, the said excise duty shall not (unless the registration is renewed under *section 78*) be charged or levied on any subsequent registration, taking effect within the said year, of the said premises in the said register.

(4) In this section the word ''year'' means a period of twelve months beginning on any 1st day of December.

Betting Duty.

67.—(1) There shall be charged, levied and paid on and by every bookmaker who makes, lays or otherwise enters into any bets an excise duty (in this Chapter referred to as ''betting duty'') at the rate of 2 per cent on the amount of every bet entered into by him or her.

(2) For the purpose of this section the amount of a bet shall be—

(*a*) the sum of money or the open market value of other consideration which by the terms of the bet the bookmaker will be entitled to receive, retain, or take credit for if the event the subject of the bet is determined in his or her favour, or

(*b*) where the amount cannot be determined in accordance with *paragraph (a)* at the time the bet is placed, the amount of the unit stake.

(3) Whenever it is proved to the satisfaction of the Revenue Commissioners—

(*a*) that a bet in respect of which the duty imposed by this section is chargeable has become void for any reason other than the mutual consent of the parties thereto, or

(*b*) that the amount of a bet in respect of which the said duty is chargeable is calculated in accordance with *subsection (2)* (*a*) has not been and is not likely to be collected by the bookmaker,

the Revenue Commissioners may, subject to such conditions as they may think fit to impose, either (as the case may require) repay the duty paid or remit the duty chargeable in respect of such bet.

(4) Every person who fails or neglects to pay, any sum payable by him or her in respect of betting duty imposed by this section within the prescribed period, shall be guilty of an offence and shall be liable on summary conviction to an excise penalty of €1,900.

Exemption from duty on bets.

68.—(1) (*a*) Betting duty shall not be charged or levied on bets where such bets—

(i) are entered into during and at a race-meeting held at an authorised racecourse, within the meaning of the Irish Horseracing Industry Act, 1994, and are in respect of one or more than one event taking place at the meeting or at a place other than at the meeting, or

(ii) are entered into during a meeting at which a series of greyhound races is held, and at the place at which such meeting is held, and are in respect of one or

more than one event taking place at the meeting or at a place other than at the meeting.

(*b*) The provisions of *paragraph (a)* shall not apply to bets entered into by any means of telecommunications.

(2) Betting duty shall not be charged or levied on totalisator bets accepted in registered premises for and on behalf of Horse Racing Ireland or Bord na gCon or a subsidiary (within the meaning of section 2 of the Horse and Greyhound Racing Act, 2001) of either body operating under a licence granted under the Totalisator Act, 1929.

Time when duty becomes due.

69.—Betting duty shall become due at the time the bet is accepted by the bookmaker.

Returns.

70.—Every person liable to pay betting duty shall within 15 days following the end of the month or such other period as the Revenue Commissioners may determine, furnish to the officer of the Revenue Commissioners designated for that purpose a true and correct return of the amount of betting duty which became due by him or her during the previous month or such other period and shall at the same time remit to the Revenue Commissioners the amount of the duty, if any, payable by him or her in respect of that month or period.

Payment of duty with bet.

71.—(1) Without prejudice to the provisions of *section 67*, every bookmaker who makes, lays or otherwise enters into any bet, shall, at the time at which he or she accepts such bet from any person, require from such person an additional payment of an amount equal to the amount of the betting duty duly payable on the amount of that bet under *section 67* unless the exemption from betting duty provided for in *section 68* applies.

(2) Notwithstanding subsection (1) a bookmaker may by notice in writing to the Revenue Commissioners, elect to pay the amount of the betting duty on a class or classes of bets specified in the notice.

(3) Betting duty which a bookmaker has elected to pay to the Revenue Commissioners pursuant to *subsection (2)* shall not be allowed as a deduction by any person in computing the amount of profits or losses of a bookmaking business for Income Tax or Corporation Tax purposes.

Estimate of duty payable.

72.—(1) Where the Revenue Commissioners have reason to believe that a person was liable to remit betting duty in relation to any month or period and the person has not remitted any duty in relation to that month or period, they may—

(*a*) estimate the amount of duty which should have been remitted by the person in accordance with *section 70* within the month or period specified by the Revenue Commissioners, and

(*b*) serve notice on the person of the amount so estimated.

(2) Where a notice is served under *subsection (1)* on a person, the following provisions shall apply:

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(*a*) the person may, if he or she claims that he or she is a person who is not liable to remit any betting duty for the month or period to which the notice relates, appeal in accordance with sections 145 and 146 of the Finance Act, 2001, and the Appeal Commissioners decision shall be final and conclusive,

(*b*) on the expiration of the periods provided for in sections 145 and 146 of the Finance Act, 2001, if no appeal is lodged, or, if such an appeal has been lodged, on final determination of the Appeal Commissioners in respect of the appeal against the appellant, the estimated betting duty specified in the notice shall be recoverable in the same manner and by the like proceedings as if the person had furnished within the prescribed period a true and correct return for the month or period to which the estimate relates showing as due by him or her such estimated duty,

(*c*) if at any time after the service of the notice by the Revenue Commissioners under *subsection (1)* the person furnishes a return in respect of the month or period specified in the notice and pays the betting duty in accordance with the return, together with any interest and costs which may have been incurred in connection with the default, the notice shall stand discharged and any excess of betting duty which may have been paid shall be repaid,

(*d*) where action has been taken for recovery of betting duty specified in a notice issued under *subsection (1)*, being action by way of the institution of proceedings in any court or the issue of a certificate under section 962 of the Taxes Consolidation Act, 1997, *paragraph (c)* shall not, unless the Revenue Commissioners otherwise direct, apply in relation to that notice until the said action has been completed.

(3) A notice given by the Revenue Commissioners under *subsection (1)* may extend to two or more months or periods.

Assessment of duty payable.

73.—(1) Where the Revenue Commissioners have reason to believe that the amount of betting duty due and payable to the Revenue Commissioners in respect of one or more months or periods by a person was greater than the amount of duty, if any, paid by him or her, then, without prejudice to any other action which may be taken, they may make an assessment in one sum of the total amount which in their opinion should have been paid, and may serve a notice on the person specifying—

(*a*) the total amount of the betting duty so assessed,

(*b*) the total amount of the duty, if any, paid by him or her in relation to the said period,

(*c*) the total amount so due and payable as aforesaid (having given credit for the amount of any duty referred to in *paragraph (b)*) and the amount so due and payable is referred to subsequently in this section as the ''amount due''.

(2) Where a notice is served under *subsection (1)* on a person, the following provisions shall apply—

(*a*) the person may, if he or she claims that the amount due is excessive, appeal in accordance with sections 145 and 146 of the Finance Act, 2001, and

(*b*) if no notice of appeal is received, on the expiration of the periods provided for in sections 145 and 146 of the Finance Act, 2001, or, if notice of appeal is received, on the determination of the appeal by agreement or otherwise, the amount due or the amended amount due as determined in relation to the appeal, shall become due and payable as if the betting duty were duty which the person was liable to pay for the month or period or months or periods to which the notice relates.

(*c*) Where a person appeals an assessment under *subsection (1)* within the time limits provided for in *subsection (2)*, he or she shall pay to the Revenue Commissioners the amount which he or she believes to be due, and if—

(i) the amount paid is greater than 80 per cent of the amount of the duty found to be due on the determination of the appeal, and

(ii) the balance of the amount found to be due on the determination of the appeal is paid within one month of the date of such determination, interest in accordance with *section 74* shall not be chargeable from the date of raising of the assessment.

Interest on late payment.

74.—(1) Where any amount of betting duty becomes payable under *section 67* and is not paid, simple interest on the amount shall be paid by the person liable to pay the duty and such interest shall be calculated from the date on which the amount became payable at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.

(2) *Subsection (1)* shall apply—

(*a*) to duty recoverable by virtue of a notice under *section 72* of this Chapter as if the duty were duty which the person was liable to pay for the respective month or period or months or periods specified in the notice, and

(*b*) to duty recoverable by virtue of a notice under *section 73* as if (whether a notice of appeal under that section is received or not) the duty were duty which the person was liable to pay for the month or period or months or periods specified in the notice.

Recovery of duty.

75.—(1) (*a*) Without prejudice to any other mode of recovery the provisions of any enactment relating to the recovery of income tax and the provisions of any rule of court so relating shall apply subject to any necessary modifications to the recovery of excise duty payable in accordance with this Chapter and the regulations thereunder as they apply to recovery of income tax.

(*b*) In particular and without prejudice to the generality of *paragraph (a)*, that paragraph applies the provisions of sections 962, 963, 964(1), 966, 967 and 968 of the Taxes Consolidation Act, 1997.

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(*c*) Provisions as applied by this section shall so apply subject to any modification specified by regulations under this Chapter.

(2) In proceedings instituted for the recovery of any amount of duty under this section or any regulations made under this Chapter—

(*a*) a certificate signed by an officer of the Revenue Commissioners which certifies that a stated amount of betting duty is due and payable by the defendant shall be evidence, until the contrary is proved, that that amount is so due and payable, and

(*b*) a certificate certifying as aforesaid and purporting to be signed 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 signed by an officer of the Revenue Commissioners.

(3) Any reference in the foregoing subsections to an amount of duty includes a reference to interest payable in the case in question under *section 74*.

(4) Subject to this section, the rules of the court concerned for the time being applicable to civil proceedings shall apply to proceedings by virtue of this section or any regulations under this Chapter.

(5) Where an order which was made before the coming into operation of this Chapter under section 2 of the Court Officers Act, 1945, contains a reference to levy under a certificate issued under section 962 of the Taxes Consolidation Act, 1997, that reference shall be construed as including a reference to levy under a certificate issued under the said section 962 as extended by this section.

Penalty for false statement.

76.—Any person who, in a return made by him or her to the Revenue Commissioners in relation to or for the purposes of the duty on bets imposed by *section 67* of this Chapter, makes any statement or representation which is to his or her knowledge false or misleading, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to an excise penalty of €1,900.

Regulations for payment of duty on bets.

77.—(1) The Revenue Commissioners may make regulations for securing the payment of betting duty and generally for carrying the provisions of this Act in relation to such duty into effect and in particular for—

(*a*) entering into arrangements with and taking security from bookmakers,

(*b*) providing for the submission of returns and payment of betting duty,

(*c*) requiring the maintenance and production by bookmakers of their books, accounts, vouchers, and other records relating to the bookmaking business carried out by them, and

(*d*) granting to bookmakers remissions or refunds (as the case may require) of betting duty in cases in which the whole or any part of the contingent liability of a bookmaker in respect of a bet made, laid, or otherwise entered into by

him or her is shown to the satisfaction of the Revenue Commissioners to have been transferred by such bookmaker to another bookmaker (who is liable to pay the duty on the transferred bets) by means of a fresh bet made, laid, or otherwise entered into by the first-mentioned bookmaker with the second-mentioned bookmaker.

(2) Every person who contravenes or fails to comply with a regulation made under this section shall be guilty of an offence and shall be liable on summary conviction to an excise penalty of €1,900.

De-registration of bookmaking premises.

78.—(1) Where, in respect of any registered premises, arrears of duty are due and owing or any return which is required by the Revenue Commissioners to be furnished in respect of the premises is not furnished within such period as is for the time being specified for that purpose, the Revenue Commissioners may cause a notice in writing to be sent to the registered proprietor of the said premises stating that, if the said arrears are not paid or the said returns are not furnished within seven days (or such greater period as the notice may specify) from the date on which the said notice is sent, the premises may be removed from the register under *subsection (3)*.

(2) Any notice under *subsection (1)* shall be in such form as the Revenue Commissioners may prescribe and shall be sent by post to the registered proprietor as aforesaid at the registered premises to which it relates.

(3) If the arrears or the returns referred to in *subsection (1)* are not paid or furnished, as the case may be, within the period specified in a notice sent under that subsection, the Revenue Commissioners may, notwithstanding the provisions of section 12 of the Betting Act, 1931, remove from the register the registered premises to which the notice relates.

(4) Whenever any premises are removed from the register under *subsection (3)*, the person who was the registered proprietor of such premises immediately before such removal shall, on demand in writing delivered at or sent by post to such premises, deliver or send to the Revenue Commissioners the latest certificate of registration of such premises issued under section 12 of the Betting Act, 1931, or the latest certificate of renewal of registration of such premises issued under the said section 12 or *subsection (6)*, and a person who fails so to deliver or send such certificate within seven days after such demand shall be guilty of an offence and shall be liable on summary conviction to an excise penalty of €1,900.

(5) (*a*) Subject to *paragraph (b)*, where—

(i) all arrears of duty which are due and owing in respect of any premises which were removed from the register under *subsection (3)* are paid, and

(ii) all returns required by regulations made by the Revenue Commissioners to be furnished in respect of the premises are furnished,

the Revenue Commissioners shall, not later than seven days after the date on which the said arrears are paid and the said returns are furnished, renew the registration of the premises in the register and shall issue to the person who was the registered proprietor of the premises immediately before the premises were removed from the

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register a certificate in the prescribed form of such renewal of registration on payment of the excise duty referred to in *paragraph (c)*.

(*b*) The registration of premises shall not be renewed under *paragraph (a)*:

(i) on any date later than the 30th day of November next after the date on which the premises were last removed from the register under *subsection (3)*, or

(ii) if any of the circumstances by reference to which premises would be removed from the register under section 17 of the Betting Act, 1931, exist in respect of the said premises at the time at which such renewal would otherwise be granted under *paragraph (a)*.

(*c*) The duty of excise imposed by *section 66*, on the registration and on the renewal of the registration of any premises in which the business of bookmaking is carried on shall be charged in the sum of €2,000 on the renewal of the registration of premises in the register under this subsection and, notwithstanding section 12(3) of the Betting Act, 1931, the said renewal shall commence and take effect from the date on which the certificate of such renewal is issued by the Revenue Commissioners under *paragraph (a)*.

(6) (*a*) A person shall not, in the course of carrying on business as a bookmaker or acting as a bookmaker, accept a bet in any premises which are not for the time being registered in the register.

(*b*) A person who accepts a bet in contravention of this subsection shall, without prejudice to any other penalty to which he or she may be liable, be guilty of an offence and shall be liable on summary conviction to an excise penalty of €1,900.

(*c*) This subsection shall not apply to a licensed bookmaker who is lawfully carrying on the business of a bookmaker at, or in the precincts of, an authorised racecourse, a greyhound race track or an authorised coursing meeting in accordance with the Irish Horseracing Industry Act, 1994 or the Greyhound Industry Act, 1958.

(7) Any person employed by the registered proprietor of registered premises as a clerk or assistant in those premises or any other person acting for or on behalf of the said proprietor who makes any entry on any slip or other record by means of which a bet is made, knowing that the said entry is false, or who substitutes for any such slip or record another document which is false, or who makes any entry in any book or record kept for the purpose of recording particulars of bets in the said premises knowing that the said entry is false or who is otherwise knowingly concerned or involved in the fraudulent evasion or an attempt at evasion of duty shall be guilty of an offence and shall be liable on summary conviction to an excise penalty of €1,900.

Nomination of officers.

79.—The Revenue Commissioners may nominate any officer of the Revenue Commissioners to perform any acts and discharge any functions authorised by this Chapter to be performed or discharged by the Revenue Commissioners.

Repeals.

80.—The enactments set out in *Schedule 3* are repealed to the extent mentioned in *column (3)* of that Schedule opposite the reference to the enactment concerned.

Saver.

81.—(1) In this section ''repealed enactments'' means the enactments repealed or revoked under *section 80*.

(2) If, and in so far as a provision of this Chapter operates, as and from the coming into operation of this Chapter, in substitution for a provision of the repealed enactments, any order or regulation made or having effect as if made, and anything done or having effect as if done, under the substituted provision before that day is to be treated on and from that day as if it were an order or regulation made or a thing done under the provision of this Chapter which so operates.

Continuity.

82.—(1) The provisions of this Chapter shall apply subject to so much of any Act which contains provisions relating to or affecting these excise duties as—

(*a*) is not repealed by this Chapter, and

(*b*) would have operated in relation to these duties if this Chapter had not been substituted for the repealed enactments.

(2) The continuity of the operation of the law relating to excise duties shall not be affected by the substitution of this Chapter for the repealed enactments.

(3) Any reference, whether express or implied, in any enactment or document (including this Chapter)—

(*a*) to any provision of this Chapter, or

(*b*) to things done or to be done under or for the purposes of any provision of this Chapter,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision.

(4) Any reference, whether express or implied, in any enactment or document (including the repealed enactments and enactments passed and documents made)—

(*a*) to any provision of the repealed enactments, or

(*b*) to things done or to be done under or for the purposes of any provision of the repealed enactments,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision

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of this Chapter applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

(5) All officers who stood authorised or nominated for the purposes of any provision of the repealed enactments are deemed to be authorised or nominated, as the case may be for the purposes of the corresponding provision of this Chapter.

(6) All instruments, documents, authorisations and letters or notices of appointment made or issued under the repealed enactments and in force immediately before the commencement of this provision shall continue in force as if made or issued under this Chapter.

Commencement.

83.—This Chapter shall come into operation on 1 May 2002.

CHAPTER 2

Miscellaneous

Amendment of section 122 (permit and licence procedure) of Finance Act, 1992.

84.—Section 122 of the Finance Act, 1992, is amended by the insertion of the following after subsection (2):

''(3) Notwithstanding anything to the contrary in any other enactment, a permit shall not be granted or renewed by the Revenue Commissioners under this section in respect of any period commencing on or after 1 July 2002 unless a tax clearance certificate in relation to the permit or its renewal has been issued in accordance with section 1094 of the Taxes Consolidation Act, 1997.''.

Amendment of Finance Act, 1992, by insertion of new section (amusement machine permits).

85.—The Finance Act, 1992, is amended by the insertion after section 123 of the following new section:

''Rates of duty on permits.

123A.—(1) There shall be charged, levied and paid in respect of a permit granted under section 122 which commences after the coming into operation of this section a duty of excise of €100.

(2) A permit granted by the Revenue Commissioners under section 122 shall expire—

(*a*) in the case of a permit in force on the date of coming into operation of this section at midnight on 30 June next following its coming into operation, or

(*b*) in the case of a permit granted after the coming into operation of this section at midnight on 30 June next following the grant of the permit.

(3) A reference in section 122 or this section to the grant of a permit shall be construed as including a reference to the renewal of such a permit.''.

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86.—Section 49 of the Finance (1909-10) Act, 1910, is amended by the insertion, after subsection (1), of the following subsection:

Amendment of section 49 of Finance (1909-10) Act, 1910 (grant of licences and date of expiration of licences).

''(1A) Notwithstanding subsection (1) or anything to the contrary in any other enactment, any licence commencing after the coming into operation of this subsection which is—

(*a*) a manufacturer's licence required by—

(i) a distiller of spirits,

(ii) a rectifier or compounder of spirits,

(iii) a brewer of beer for sale, or

(iv) a maker for sale of sweets,

(*b*) a beer retailer's on-licence,

(*c*) a cider retailer's on-licence,

(*d*) a sweets retailer's on-licence,

(*e*) a cider retailer's off-licence,

(*f*) a sweets retailer's off-licence,

(*g*) a railway restaurant car licence,

(*h*) a passenger vessel licence (annual),

(*i*) a passenger vessel licence (one day), or

(*j*) a passenger aircraft licence,

as is specified in the First Schedule to this Act, shall not be granted or renewed by the Revenue Commissioners unless a tax clearance certificate in relation to that licence has been issued in accordance with section 1094 of the Taxes Consolidation Act, 1997.''.

87.—Section 136 of the Finance Act, 2001, is amended—

Amendment of section 136 (entry and search of premises) of Finance Act, 2001.

(*a*) in subsection (1) by inserting the following paragraph after paragraph (*b*):

''(*bb*) bets liable to betting duty are reasonably believed to be accepted, or'',

and

(*b*) in paragraph (*c*) of subsection (1) by substituting ''(*a*), (*b*) and (*bb*)'' for ''(*a*) and (*b*)'', and

(*c*) in subsection (3) by inserting the following paragraph after paragraph (*d*):

''(*e*) exercise the powers of detention provided for under section 140.''.

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Tobacco products.

88.—(1) In this section and in *Schedule 4*—

''Act of 1977'' means the Finance (Excise Duty on Tobacco Products) Act, 1977;

''cigarettes'', ''cigars'', ''fine-cut tobacco for the rolling of cigarettes'' and ''smoking tobacco'' have the same meanings as they have in the Act of 1977, as amended by section 86 of the Finance Act, 1997, and *section 94* of this Act.

(2) The duty of excise on tobacco products imposed by section 2 of the Act of 1977 shall, in lieu of the several rates specified in Schedule 4 to the Finance Act, 2001, be charged, levied and paid—

(*a*) as on and from 6 December 2001, at the several rates specified in *Part 1* of *Schedule 4*, and

(*b*) as on and from 1 January 2002, at the several rates specified in *Part 2* of *Schedule 4*.

Rates of mineral oil tax.

89.—The Finance Act, 1999, is amended—

(*a*) with effect as on and from 6 December 2001, by substituting the following Schedule for Schedule 2 to that Act:

''SCHEDULE 2

RATES OF MINERAL OIL TAX

With effect as on and from 6 December 2001

Description of Mineral Oil	Rate of Duty
	£
Light Oil:	
Leaded petrol	403.02 per 1,000 litres
Unleaded petrol	316.10 per 1,000 litres
Super unleaded petrol	398.88 per 1,000 litres
Aviation gasoline	201.51 per 1,000 litres
Heavy Oil:	
Used as a propellant	237.80 per 1,000 litres
Kerosene used other than as a propellant	25.00 per 1,000 litres
Fuel oil	10.60 per 1,000 litres
Other heavy oil	37.30 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	41.75 per 1,000 litres
Other liquefied petroleum gas	14.30 per 1,000 litres
Substitute Fuel:	
Used as a propellant	237.80 per 1,000 litres
Other substitute fuel	37.30 per 1,000 litres

'',

(*b*) with effect as on and from 1 January 2002, by substituting the following Schedule for Schedule 2 (inserted by *subsection (a)*) to that Act:

"SCHEDULE 2 PT.2 S.89

RATES OF MINERAL OIL TAX

With effect as on and from 1 January 2002

Description of Mineral Oil	Rate of Duty
	€
Light Oil:	
Leaded petrol	511.72 per 1,000 litres
Unleaded petrol	401.36 per 1,000 litres
Super unleaded petrol	506.47 per 1,000 litres
Aviation gasoline	255.86 per 1,000 litres
Heavy Oil:	
Used as a propellant	301.94 per 1,000 litres
Kerosene used other than as a propellant	31.74 per 1,000 litres
Fuel oil	13.45 per 1,000 litres
Other heavy oil	47.36 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	53.01 per 1,000 litres
Other liquefied petroleum gas	18.15 per 1,000 litres
Substitute Fuel:	
Used as a propellant	301.94 per 1,000 litres
Other substitute fuel	47.36 per 1,000 litres

",

(*c*) with effect as on and from 1 March 2002, by substituting the following Schedule for Schedule 2 (inserted by *subsection (b)*) to that Act:

"SCHEDULE 2

RATES OF MINERAL OIL TAX

With effect as on and from 1 March 2002

Description of Mineral Oil	Rate of Duty
	€
Light Oil:	
Leaded petrol	511.72 per 1,000 litres
Unleaded petrol	401.36 per 1,000 litres
Super unleaded petrol	506.47 per 1,000 litres
Aviation gasoline	255.86 per 1,000 litres
Heavy Oil:	
Used as a propellant with a maximum sulphur content of 50 milligrammes per kilogramme	301.94 per 1,000 litres
Other heavy oil used as a propellant	354.33 per 1,000 litres
Kerosene used other than as a propellant	31.74 per 1,000 litres
Fuel oil	13.45 per 1,000 litres
Other heavy oil	47.36 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	53.01 per 1,000 litres
Other liquefied petroleum gas	18.15 per 1,000 litres
Substitute Fuel:	
Used as a propellant	301.94 per 1,000 litres
Other substitute fuel	47.36 per 1,000 litres

".

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Cider and perry.

90.—(1) In *Schedule 5* ''% vol'' means the number of volumes of pure alcohol contained at a temperature of 20°C in 100 volumes of the product at that temperature.

(2) The duty of excise on cider and perry imposed by paragraph 8(2) of the Imposition of Duties (No. 221) (Excise Duties) Order 1975 (S.I. No. 307 of 1975), shall, in lieu of the several rates specified in the Fourth Schedule to the Finance Act, 1994, be charged, levied and paid—

(*a*) as on and from 6 December 2001, at the several rates specified in *Part 1* of *Schedule 5,* and

(*b*) as on and from 1 January 2002, at the several rates specified in *Part 2* of *Schedule 5.*

Amendment of section 98 (horticultural production) of Finance Act, 1999.

91.—Section 98 of the Finance Act, 1999, is amended by substituting the following subsection for subsection (2):

''(2) (*a*) Claims for repayment under subsection (1) shall be made in such form as the Commissioners may direct and shall be in respect of mineral oil used within a period of not less than one and not more than 6 calendar months.

(*b*) A repayment under subsection (1) may not be made unless the claim is made within 4 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.''.

Amendment of section 100 (relief from mineral oil tax for certain mineral oils) of Finance Act, 1999.

92.—Section 100 of the Finance Act, 1999, is amended by substituting the following subsection for subsection (3):

''(3) (*a*) Claims for remission or repayment under subsection (2) shall be made in such form as the Commissioners may direct and shall be in respect of oil used within a period of not less than one and not more than 6 calendar months.

(*b*) A repayment under subsection (2) may not be made unless the claim is made within 4 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.''.

Passenger road services.

93.—(1) The Finance Act, 1999, is amended in Chapter 1 of Part 2 by substituting the following section for section 99:

''99.—(1) Where a person who—

(*a*) carries on a passenger road service within the meaning of section 2 of the Road Transport Act, 1932, pursuant to a passenger licence granted under section 11 of that Act,

(*b*) lawfully carries on, other than pursuant to such a licence, such a passenger road service,

(*c*) provides a school transport service pursuant to an agreement with the Minister for Education and Science, Pt.2 S.93

(*d*) carries on a passenger road service or provides a school transport service pursuant to an agreement with a person to whom and in respect of such service to which paragraph (*a*), (*b*) or (*c*), as may be appropriate, applies, or

(*e*) subject to subsection (2), carries for reward tourists by road under contracts for group transport,

shows to the satisfaction of the Commissioners that heavy oil on which mineral oil tax has been paid has been used by such person for combustion in the engine of a mechanically propelled vehicle, on the route travelled by such vehicle in the course of providing such service or in the course of such carriage of tourists, the Commissioners shall, subject to compliance with such conditions as they may think fit, repay to such person the amount of mineral oil tax paid less an amount calculated at the rate of €22.72 per 1,000 litres on such mineral oil so used.

(2) Repayments in respect of the carriage of tourists referred to in paragraph (*e*) of subsection (1) shall be made only where—

(*a*) such carriage is under a contract for a tour over a period of at least three days, and which includes the provision of accommodation for each night during that period for all tourists carried, and

(*b*) the vehicle used in the course of providing such carriage is—

(i) a single-deck touring coach having dimensions as designated by the manufacturer of not less than 2,700 millimetres in height, not less than 8,000 millimetres in length, not less than 950 millimetres in floor height and with an underfloor luggage capacity of not less than 3 cubic metres, or

(ii) a double-deck touring coach having dimensions as designated by the manufacturer of not more than 4,300 millimetres in height and not less than 10,000 millimetres in length.

(3) (*a*) Claims for repayment under subsection (1) shall be made in such form as the Commissioners may direct and shall be in respect of oil used within a period of not less than one and not more than 6 calendar months.

(*b*) A repayment under subsection (1) may not be made unless the claim is made within 4 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

(4) Where a person has obligations under the Acts within the meaning of subsection (3) of section 1095 of the Taxes Consolidation Act, 1997, a repayment under subsection (1) may not be made to such person unless a current tax clearance certificate,

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valid on the date of authorisation of such repayment, has been issued to such person in accordance with that section.''.

(2) This section shall come into operation on such day as the Minister for Finance may by order appoint.

Amendment of section 1 (interpretation) of Finance (Excise Duty on Tobacco Products) Act, 1977.

94.—(1) Section 1 of the Finance (Excise Duty on Tobacco Products) Act, 1977, is amended—

(*a*) in subsection (1)—

(i) by substituting ''section 96 of the Finance Act, 2001'' for ''section 103(1) of the Finance Act, 1992'' in the definition of ''Community'', and

(ii) by substituting the following for the definition of ''cigars'' (inserted by section 86 of the Finance Act, 1997):

'' 'cigars' means—

(*a*) rolls of tobacco made entirely of natural tobacco,

(*b*) rolls of tobacco with an outer wrapper of natural tobacco,

(*c*) rolls of tobacco with—

(i) a threshed blend filler, and

(ii) an outer wrapper of the normal colour of a cigar covering the product in full, including where appropriate the filter but not, in the case of tipped cigars, the tip and a binder, both being of reconstituted tobacco,

where the unit weight, excluding the filter or mouth-piece, is not less than 1.2 grammes and where the wrapper is fitted in spiral form with an acute angle of at least 30 degrees to the longitudinal axis of the cigar,

(*d*) rolls of tobacco with—

(i) a threshed blend filler, and

(ii) an outer wrapper of the normal colour of a cigar of reconstituted tobacco, covering the product in full, including where appropriate the filter but not, in the case of tipped cigars, the tip,

where the unit weight, excluding the filter or mouth-piece, is not less than 2.3 grammes and the circumference over at least one-third of the length is not less than 34 millimetres,

(*e*) products consisting in part of substances other than tobacco but otherwise conforming to the criteria set out in paragraph (*a*), (*b*), (*c*) or (*d*) provided they have:

(i) a wrapper of natural tobacco,

(ii) a wrapper and binder both of reconstituted tobacco, or

(iii) a wrapper of reconstituted tobacco,

and to which Council Directive No. 95/59/EC of 27 November 1995[1] (as amended) relates;'',

and

(*b*) in subsection (1A)—

(i) by substituting ''suspension arrangement'' for ''duty-suspension arrangement'', and

(ii) by substituting ''Part 2 of the Finance Act, 2001'' for ''Chapter II of Part II of the Finance Act, 1992''.

(2) Subsection (1)(*a*)(ii) shall come into operation on such day as the Minister for Finance may appoint by order.

Amendment of section 2B (sale of cigarettes) of Finance (Excise Duty on Tobacco Products) Act, 1977.

95.—The Finance (Excise Duty on Tobacco Products) Act, 1977, is amended in subsection (1) (as amended by section 79 of the Finance Act, 1995) of section 2B (inserted by section 70 of the Finance Act, 1994)—

(*a*) in paragraph (*a*) by substituting ''section 104(2) of the Finance Act, 2001'' for ''subsection (2) of section 106 of the Finance Act, 1992'', and

(*b*) in paragraph (*b*) by substituting ''suspension arrangement'' for ''duty-suspension arrangement''.

Amendment of section 7 of Finance (Excise Duty on Tobacco Products) Act, 1977.

96.—Section 7 of the Finance (Excise Duty on Tobacco Products) Act, 1977, is amended in subsection (3)(*c*) (inserted by section 84 of the Finance Act, 1996) by substituting ''5 cent'' for ''five pence''.

Amendment of section 10A (offences in relation to tax stamps) of Finance (Excise Duty on Tobacco Products) Act, 1977.

97.—The Finance (Excise Duty on Tobacco Products) Act, 1977, is amended in section 10A (inserted by section 74 of the Finance Act, 1994)—

(*a*) in subsection (1) (as amended by section 82 of the Finance Act, 1995, section 85 of the Finance Act, 1996 and section 87 of the Finance Act, 1997) by substituting ''suspension arrangement'' for ''duty-suspension arrangement'', and

(*b*) in subsection (4)(*b*)(ii) (inserted by section 158 of the Finance Act, 2001) by substituting ''suspension arrangement'' for ''duty-suspension arrangement''.

[1]O.J. No. L 291, 6.12.1995, p. 40

PART 3

Value-Added Tax

Interpretation (*Part 3*).

98.—In this Part ''the Principal Act'' means the Value-Added Tax Act, 1972.

Amendment of section 4 (special provisions in relation to the supply of immovable goods) of Principal Act.

99.—Section 4 of the Principal Act is amended by the insertion of the following subsection after subsection (3)—

''(3A) (*a*) Where a person having an interest in immovable goods to which this section applies surrenders possession of those goods or of any part of them by means of a disposal of that interest or of an interest which derives from that interest, and where the value of the interest being disposed of is less than its economic value then for the purposes of this Act such disposal—

(i) shall be deemed not to be a supply of immovable goods for the purposes of subsection (2), but

(ii) shall be deemed to be a letting of immovable goods to which paragraph (iv) of the First Schedule applies.

(*b*) This subsection does not apply to the disposal of a freehold interest.

(*c*) Where a person establishes to the satisfaction of the Revenue Commissioners that the value of an interest in immovable goods being disposed of by such person is less than the economic value of those immovable goods because of an unforeseen change in market conditions affecting the value of that interest since such person acquired and developed those goods, then the Revenue Commissioners may determine that that disposal be treated as a supply of immovable goods for the purposes of subsection (2).

(*d*) For the purposes of this subsection—

'economic value', in relation to an interest in immovable goods being disposed of, means the amount on which tax was chargeable to the person disposing of that interest in respect of that person's acquisition of that interest and in respect of any development of those immovable goods by or on behalf of that person since that acquisition; but if—

(i) there was no development of those immovable goods by or on behalf of that person since that person's acquisition of that interest, and

(ii) that person disposes, including by way of surrender or assignment, of an interest (in this subsection referred to as a 'lesser interest') which is derived from the interest

which that person acquired (in this subsection referred to as a 'greater interest'), and

(iii) the lesser interest is an interest of not more than 35 years,

then the economic value of the lesser interest shall be deemed to be the amount calculated in accordance with the following formula:

$$E \times \frac{N1}{N2}$$

where—

E is the economic value of the greater interest,

N1 is the number of full years in the lesser interest, and

N2 is the number of full years in the greater interest, but if the number of full years in the greater interest exceeds 35 or if the greater interest is a freehold interest then N2 shall be deemed to be equal to 35,

but where—

(I) the disposal of the lesser interest is not a disposal by way of surrender or assignment, and

(II) the amount so calculated is less than 75 per cent of the economic value of the greater interest,

then the economic value of the lesser interest shall be deemed to be 75 per cent of the economic value of the greater interest;

'the value of an interest being disposed of' means the amount on which tax would be chargeable in accordance with section 10 if that disposal were deemed to be a supply of immovable goods in accordance with subsection (2).''.

Amendment of section 7 (waiver of exemption) of Principal Act.

100.—Section 7 of the Principal Act is amended in subsection (1)—

(*a*) by renumbering that subsection as paragraph (*a*) of subsection (1), and

(*b*) by inserting the following after paragraph (*a*):

''(*b*) A waiver of exemption from tax under this subsection shall not apply or be extended to any

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disposal of an interest in immovable goods which is deemed to be a letting of immovable goods to which paragraph (iv) of the First Schedule applies by virtue of section 4(3A)(*a*)(ii).''.

Amendment of section 8 (taxable persons) of Principal Act.

101.—Section 8 of the Principal Act is amended—

(*a*) by adding in subsection (1) '', but a person not established in the State who supplies a service in the State in the circumstances set out in subsection (2)(*aa*) shall not be a taxable person and shall not be accountable for or liable to pay the tax chargeable in respect of such supply'' after ''in respect of such supply'',

(*b*) in subsection (2)—

(i) by inserting the following after paragraph (*a*):

''(*aa*) Where a person not established in the State supplies a cultural, artistic, entertainment or similar service in the State, then any person, other than a person acting in a private capacity, who receives that service shall—

(i) in relation to it, be a taxable person or be deemed to be a taxable person, and

(ii) be liable to pay the tax chargeable as if that taxable person had in fact supplied the service for consideration in the course or furtherance of business;

but where that service is commissioned or procured by a promoter, agent or other person not being a person acting in a private capacity, then that promoter, agent or person shall be deemed to be the person who receives the service.

(*ab*) Where the person who receives the services referred to in paragraph (*aa*) is a body that has received funding from the Arts Council in the 3 years prior to the passing of the *Finance Act, 2002,* the Revenue Commissioners may, at the request of such body, authorise the application of that paragraph in respect of such services received by that body to be deferred to a time not later than 1 March 2003.'',

and

(ii) by inserting the following after paragraph (*c*):

''(*d*) (i) Where a person who owns, occupies or controls land (in this subsection referred to as a 'premises provider') allows, in the

course or furtherance of business, a person not established in the State to supply goods for consideration in the course or furtherance of business (in this subsection referred to as a 'mobile trader') on that land for a period of less than seven consecutive days, then the premises provider shall, not later than fourteen days before the day when the mobile trader is allowed to supply goods on that land, furnish to the Revenue Commissioners, at the office of the Revenue Commissioners which would normally deal with the examination of the records kept by the premises provider in accordance with section 16, the following particulars—

(I) the name and address of the mobile trader,

(II) the dates on which the mobile trader intends to supply goods on the premises provider's land,

(III) the address of the land referred to in clause (II), and

(IV) any other information as may be specified in regulations.

(ii) Where a premises provider allows, in the course or furtherance of business, a promoter not established in the State to supply on the premises provider's land a cultural, artistic, entertainment or similar service which in accordance with section (2)(*aa*) is deemed to be supplied by that promoter, then the premises provider shall, not later than fourteen days before such service is scheduled to begin, furnish to the Revenue Commissioners, at the office of the Revenue Commissioners which would normally deal with the examination of the records kept by the premises provider in accordance with section 16, the following particulars—

(I) the name and address of the promoter,

(II) details, including the dates, duration and venue, of the event or performance commissioned or procured by the promoter in the provision of that service, and

(III) any other information as may be specified in regulations.

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(iii) Where a premises provider fails to provide to the Revenue Commissioners true and correct particulars as required in accordance with subparagraph (i) or (ii), then the Revenue Commissioners may, where it appears necessary to them to do so for the protection of the revenue, make such premises provider jointly and severally liable with a mobile trader or promoter, as the case may be, for the tax chargeable in respect of supplies made by that mobile trader or promoter on the premises provider's land, and in those circumstances the Revenue Commissioners shall notify the premises provider in writing accordingly.

(iv) A premises provider who has been notified in accordance with subparagraph (iii) shall be deemed to be a taxable person and shall be liable to pay the tax referred to in that subparagraph as if it were tax due in accordance with section 19 by the premises provider for the taxable period within which the supplies are made by the mobile trader or promoter, but the premises provider shall not be liable to pay tax referred to in subparagraph (iii) which the Revenue Commissioners are satisfied was accounted for by a mobile trader or promoter.'',

and

(*c*) in subsection (8)—

(i) by adding in paragraph (*a*)(i) ''and the persons so notified shall be regarded as being in a group for as long as this paragraph applies to them,'' after ''accordingly,'', and

(ii) by inserting the following after paragraph (*c*):

''(*d*) Where a person in a group (in this subsection referred to as the 'landlord') having acquired an interest in, or developed, immovable goods to which section 4 applies, whether such acquisition or development occurred before or after the landlord became a person in the group, subsequently surrenders possession of those immovable goods, or any part of them, to another person in the group (in this subsection referred to as the 'occupant') where the surrender of possession if it were to a person not in the group would not constitute a supply of immovable goods in accordance with section 4, and either the landlord or the occupant subsequently ceases to be a person in the group (in this subsection referred to as a 'cessation') then, if that landlord does not have a waiver of his or

her right to exemption from tax in accordance with section 7 still in effect at the time of the cessation—

(i) the surrender of possession, or

(ii) if that landlord surrendered possession of those immovable goods more than once to another person in the group, the first such surrender of possession,

shall be deemed to occur when that first such cessation takes place, but if such a landlord's waiver of his or her right to exemption from tax in accordance with section 7 has been cancelled before a surrender of possession of immovable goods to another person in the group ends, that surrender of possession shall be deemed to take place on the date of the said first such cessation.''.

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

102.—Section 10 of the Principal Act is amended—

(*a*) by substituting in subsection (6) ''Subject to subsection (6A), where'' for ''Where'',

(*b*) by inserting the following after subsection (6):

''(6A) Notwithstanding the provisions of subsection (6), where—

(*a*) a supplier—

(i) supplies a token, stamp, coupon or voucher, which has an amount stated on it, to a person who acquires it in the course or furtherance of business with a view to resale, and

(ii) promises to subsequently accept that token, stamp, coupon or voucher at its face value in full or part payment of the price of goods,

and

(*b*) a person who acquires that token, stamp, coupon or voucher, whether from the supplier referred to in paragraph (*a*) or from any other person in the course or furtherance of business, supplies it for consideration in the course or furtherance of business,

then in the case of each such supply the consideration received shall not be disregarded for the purposes of this Act and when such token, stamp, coupon or voucher is used in payment or part payment of the price of goods, the face value of it shall, for the purposes of section 10(2), be disregarded.'',

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and

(*c*) in subsection (7)(*c*) by inserting ''(6A) or'' after ''subject to subsection''.

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

103.—Section 11(1)(*a*) of the Principal Act is amended by substituting ''21 per cent'' for ''20 per cent'' (inserted by the Finance Act, 2001).

Amendment of section 12D (adjustment of tax deductible in certain circumstances) of Principal Act.

104.—Section 12D of the Principal Act is amended in subsection (4) by substituting ''calculate an amount which shall be payable as if it were tax due by that person in accordance with section 19 for the taxable period within which the transfer was made, and that amount shall be calculated'' for ''reduce the amount of tax deductible by that person, for the purposes of section 12, for the period within which the transfer was made, by an amount calculated''.

Amendment of section 13 (remission of tax on goods exported, etc.) of Principal Act.

105.—Section 13 of the Principal Act is amended in subsection (3)(*b*) by adding ''other than services for which in accordance with section 8(2) the person who receives them is solely liable for the tax chargeable'' after ''in the State''.

Amendment of section 19 (tax due and payable) of Principal Act.

106.—Section 19 of the Principal Act is amended—

(*a*) in subsection (2) by inserting ''However this subsection does not apply to the tax chargeable in respect of supplies of goods or services where tax is due in accordance with paragraph (*a*) or (*b*) of subsection (1) by a taxable person who is not authorised under section 14 to account for tax due by reference to the amount of the moneys received during a taxable period or part thereof.'' after ''at the time of such receipt.'', and

(*b*) by inserting the following after subsection (3)(*c*):

''(*d*) (i) A return required to be furnished by a taxable person under this subsection may be furnished by the taxable person or another person acting under the taxable person's authority for that purpose and a return purporting to be a return furnished by a person acting under a taxable person's authority shall be deemed to be a return furnished by the taxable person, unless the contrary is proved.

(ii) Where a return in accordance with paragraph (i) is furnished by a person acting under a taxable person's authority the provisions of any enactment relating to value-added tax shall apply as if it had been furnished by the taxable person.''.

Letter of expression of doubt.

107.—The Principal Act is amended by inserting the following section after section 19A—

''19B.—(1) (*a*) Where a taxable person is in doubt as to the correct application of any enactment relating to value-added tax (in this section referred to

as 'the law') to a transaction which could give rise to a liability to tax by that person or affect that person's liability to tax or entitlement to a deduction or refund of tax, then that taxable person may, at the same time as the taxable person furnishes to the Collector-General the return due in accordance with section 19 for the period in which the transaction occurred, lodge a letter of expression of doubt with the Revenue Commissioners at the office of the Revenue Commissioners which would normally deal with the examination of the records kept by that person in accordance with section 16, but this section shall only apply if that return is furnished within the time limits prescribed in section 19.

(*b*) For the purposes of this section 'letter of expression of doubt' means a communication received in legible form which—

(i) sets out full details of the circumstances of the transaction and makes reference to the provisions of the law giving rise to the doubt,

(ii) identifies the amount of tax in doubt in respect of the taxable period to which the expression of doubt relates,

(iii) is accompanied by supporting documentation as relevant, and

(iv) is clearly identified as a letter of expression of doubt for the purposes of this section,

and reference to an expression of doubt shall be construed accordingly.

(2) Subject to subsection (3), where a return and a letter of expression of doubt relating to a transaction are furnished by a taxable person to the Revenue Commissioners in accordance with this section, the provisions of section 21 shall not apply to any additional liability arising from a notification to that person by the Revenue Commissioners of the correct application of the law to the said transaction, on condition that such additional liability is accounted for and remitted to the Collector-General by the taxable person as if it were tax due for the taxable period in which the notification is issued.

(3) Subsection (2) does not apply where the Revenue Commissioners do not accept as genuine an expression of doubt in respect of the application of the law to a transaction, and an expression of doubt shall not be accepted as genuine in particular where the Revenue Commissioners—

(*a*) have issued general guidelines concerning the application of the law in similar circumstances,

(*b*) are of the opinion that the matter is otherwise sufficiently free from doubt as not to warrant an expression of doubt, or

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(*c*) are of the opinion that the taxable person was acting with a view to the evasion or avoidance of tax.

(4) Where the Revenue Commissioners do not accept an expression of doubt as genuine they shall notify the taxable person accordingly, and the taxable person shall account for any tax, which was not correctly accounted for in the return referred to in subsection (1), as tax due for the taxable period in which the transaction occurred, and the provisions of section 21 shall apply accordingly.

(5) A taxable person who is aggrieved by a decision of the Revenue Commissioners that that person's expression of doubt is not genuine may, by giving notice in writing to the Revenue Commissioners within the period of twenty-one days after the notification of the said decision, require the matter to be referred to the Appeal Commissioners.

(6) A letter of expression of doubt shall be deemed not to have been made unless its receipt is acknowledged by the Revenue Commissioners and that acknowledgement forms part of the records kept by the taxable person for the purposes of section 16.

(7) (*a*) For the purposes of this section 'taxable person' includes a person who is not a registered person and is in doubt as to whether he or she is a taxable person in respect of a transaction and in that case references to a return and records are to be construed as referring to a return that would be due under section 19 and records that would be kept for the purposes of section 16, if that person were in fact a taxable person.

(*b*) A person whose expression of doubt concerns whether he or she is a taxable person shall lodge that expression of doubt for the purposes of applying subsection (2) not later than the nineteenth day of the month following the taxable period in which the transaction giving rise to the expression of doubt occurred.''.

Amendment of section 21 (interest) of Principal Act.

108.—Section 21 of the Principal Act is amended by substituting the following subsection for subsection (1)—

''(1) (*a*) Where any amount of tax becomes payable under section 19(3) and is not paid, simple interest on the amount shall be paid by the taxable person, and such interest shall be calculated from the date on which the amount became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.

(*b*) Where an amount of tax is refunded to a person and where—

(i) no amount of tax was properly refundable to that person under section 20(1), or

(ii) the amount of tax refunded is greater than the amount properly refundable to that person under section 20(1),

simple interest shall be paid by that person on any amount of tax refunded to that person which was not properly refundable to that person under section 20(1), from the date the refund was made, at the rate of 0.0322 per cent for each day or part of a day during which the person does not correctly account for any such amount refunded which was not properly refundable.''.

Amendment of section 25 (appeals) of Principal Act.

109.—Section 25 of the Principal Act is amended in subsection (1)—

(*a*) by deleting paragraph (*ab*), and

(*b*) by inserting the following after paragraph (*ad*):

''(*ae*) the treatment of a person who allows supplies to be made on land owned, occupied or controlled by that person, as jointly and severally liable with another person, in accordance with section 8(2)(*d*),

(*af*) the application of section 4(3A)(*c*),''.

Amendment of First Schedule to Principal Act.

110.—The First Schedule to the Principal Act is amended by inserting the following after paragraph (xv):

''(xv*a*) The acceptance of totalisator bets—

(*a*) by a person or a body of persons operating under a licence granted under the Totalisator Act, 1929, or

(*b*) by a licensed bookmaker acting in accordance with the provisions of section 19A(*a*) of the Betting Act, 1931 (inserted by the Horse and Greyhound Racing Act, 2001);''.

PART 4

Stamp Duties

Interpretation (*Part 4*).

111.—In this Part ''Principal Act'' means the Stamp Duties Consolidation Act, 1999.

Amendment of section 76 (obligations of system-members) of Principal Act.

112.—(1) Section 76 of the Principal Act is amended in subsection (1) by substituting ''6 years'' for ''3 years''.

(2) *Subsection (1)* has effect in relation to instructions entered or caused to be entered in a relevant system by a system-member on or after the passing of this Act.

Amendment of Chapter 2 of Part 7 of Principal Act.

113.—(1) Chapter 2 of Part 7 of the Principal Act is amended—

(*a*) in section 92A by inserting the following subsections after subsection (6):

''(7) Notwithstanding subsection (2), subsection (3) shall not apply to an instrument to which subsection (1)

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applied and which was executed before 6 December 2001 to the extent that any rent or payment in the nature of rent is derived on or after 6 December 2001, for the use of the dwellinghouse or apartment or any part of the dwellinghouse or apartment.

(8) This section shall not apply to an instrument executed on or after 6 December 2001.'',

(*b*) in section 92B by substituting the following for subsection (2):

''(2) The amount of stamp duty chargeable under or by reference to paragraphs (2) to (5) of the Heading 'CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance' or clauses (ii) to (v) of paragraph (3)(*a*) of the Heading 'LEASE', as the case may be, in Schedule 1 on any instrument to which this section applies shall be reduced, where paragraph (2) or clause (ii) applies, to nil, and where—

(*a*) paragraph (3) or clause (iii) applies, to an amount equal to three-fourths,

(*b*) paragraph (4) or clause (iv) applies, to an amount equal to three and three quarter-fifths,

(*c*) paragraph (5) or clause (v) applies, to an amount equal to four and one half-sixths,

of the amount which would otherwise have been chargeable but where the amount so obtained is a fraction of €1 that amount shall be rounded down to the nearest €.'',

and

(*c*) by deleting section 92C.

(2) (*a*) *Paragraph (a)* of *subsection (1)* is deemed to have applied as on and from 6 December 2001.

(*b*) *Paragraph (b)* of *subsection (1)* has effect in relation to instruments executed on or after 6 December 2001 subject to substituting, in subsection (2) of section 92B (inserted by *subsection (1)*), ''£1'' for ''€1'' and ''up to the nearest £'' for ''down to the nearest €'' for instruments executed on or after 6 December 2001 and before 1 January 2002.

(*c*) *Paragraph (c)* of *subsection (1)* has effect in relation to instruments executed on or after 6 December 2001.

Amendment of Schedule 1 to Principal Act.

114.—(1) Schedule 1 to the Principal Act is amended—

(*a*) under the Heading ''CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance''—

(i) in paragraph (1) by substituting—

''exceeds €127,000:

for the consideration which is attributable to residential property .....Exempt.''

for

''exceeds €127,000 .....9 per cent of the consideration which is attributable to residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.'',

(ii) in paragraph (2) by substituting ''3 per cent'' for ''9 per cent'',

(iii) in paragraph (3) by substituting ''4 per cent'' for ''9 per cent'',

(iv) in paragraph (4) by substituting ''5 per cent'' for ''9 per cent'',

(v) in paragraph (5) by substituting ''6 per cent'' for ''9 per cent'', and

(vi) in paragraph (6) by substituting ''7.5 per cent'' for ''9 per cent'',

(*b*) under the Heading ''LEASE''—

(i) in clause (i) of paragraph (3)(*a*) by substituting—

''exceeds €127,000:

for the consideration which is attributable to residential property .....Exempt.''

for

''exceeds €127,000 .....9 per cent of the consideration which is attributable to residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.'',

(ii) in clause (ii) of paragraph (3)(*a*) by substituting ''3 per cent'' for ''9 per cent'',

(iii) in clause (iii) of paragraph (3)(*a*) by substituting ''4 per cent'' for ''9 per cent'',

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(iv) in clause (iv) of paragraph (3)(*a*) by substituting ''5 per cent'' for ''9 per cent'',

(v) in clause (v) of paragraph (3)(*a*) by substituting ''6 per cent'' for ''9 per cent'', and

(vi) in clause (vi) of paragraph (3)(*a*) by substituting ''7.5 per cent'' for ''9 per cent''.

(2) (*a*) *Paragraphs (a)(i)* and *(b)(i)* of *subsection (1)* apply to instruments executed on or after 6 December 2001 subject to substituting, in paragraph (1) of the Heading ''CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance'' (amended by *subsection (1)*) and in clause (i) of paragraph (3)(*a*) of the Heading ''LEASE'' (amended by *subsection (1)*), ''£100,000'' for ''€127,000'' for instruments executed on or after 6 December 2001 and before 1 January 2002.

(*b*) *Paragraphs (a)(ii), (a)(iii), (a)(iv), (a)(v), (a)(vi), (b)(ii), (b)(iii), (b)(iv), (b)(v)* and *(b)(vi)* of *subsection (1)* apply to instruments executed on or after 6 December 2001.

PART 5

Capital Acquisitions Tax

Interpretation (*Part 5*).

115.—In this Part ''Principal Act'' means the Capital Acquisitions Tax Act, 1976.

Amendment of section 19 (value of agricultural property) of Principal Act.

116.—(1) Section 19 of the Principal Act is amended in subparagraph (ii) of subsection (5)(*a*) by substituting ''6 years'' for ''4 years'' (inserted by the Finance Act, 2001).

(2) *Subsection (1)* has effect in relation to compulsory acquisitions made on or after the passing of this Act.

Amendment of section 36 (delivery of returns) of Principal Act.

117.—(1) Section 36 of the Principal Act is amended—

(*a*) in paragraph (*a*) of subsection (4) by substituting ''5 December 1991'' for ''2 December 1988'', and

(*b*) in paragraphs (*b*) and (*c*) of subsection (14) by substituting ''5 December 1991'' for ''the 2nd day of December, 1988''.

(2) This section has effect in relation to gifts or inheritances taken on or after 5 December 2001.

Amendment of section 41 (payment of tax and interest on tax) of Principal Act.

118.—(1) Section 41 of the Principal Act is amended in subsection (2A)—

(*a*) by substituting in paragraph (*b*) ''subsection (3) or (4) of section 55'' for ''section 55(4)'',

(*b*) by substituting in paragraph (*d*) ''to apply,'' for ''to apply.'', and

(*c*) by inserting the following after paragraph (*d*):

''(*e*) to the extent to which subsection (5) or (6) of section 59C applies, for the duration of the period from the valuation date to the date the exemption ceases to apply.''.

(2) (*a*) *Paragraph (a)* of *subsection (1)* applies where the event which causes the exemption to cease to be applicable occurs on or after 11 February 1999.

(*b*) *Paragraph (c)* of *subsection (1)* applies where the event which causes the exemption to cease to be applicable occurs on or after 1 December 1999.

Amendment of section 52 (appeals in other cases) of Principal Act.

119.—(1) Section 52 of the Principal Act is amended by substituting the following for subsection (7):

''(7) Prima facie evidence of any notice given under this section by the Commissioners or by an officer of the Commissioners may be given in any proceedings by the production of a document purporting—

(*a*) to be a copy of the notice, or

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

and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised to do so.''.

(2) This section has effect in relation to evidence of any notice given by the Commissioners or by an officer of the Commissioners in any proceedings on or after the passing of this Act.

Amendment of section 70 (delivery, service and evidence of notices and forms, etc.) of Principal Act.

120.—(1) Section 70 of the Principal Act is amended by substituting the following for subsection (3):

''(3) Prima facie evidence of any notice given under this Act by the Commissioners or by an officer of the Commissioners may be given in any proceedings by the production of a document purporting—

(*a*) to be a copy of that notice, or

(*b*) if the details specified in that notice are contained in an electronic, photographic or other record maintained by the Commissioners, to reproduce those details in so far as they relate to that notice,

and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised to do so.''.

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(2) This section has effect in relation to evidence of any notice given by the Commissioners or by an officer of the Commissioners in any proceedings on or after the passing of this Act.

Amendment of Second Schedule (computation of tax) to Principal Act.

121.—(1) The Second Schedule to the Principal Act is amended in paragraph 3(*a*)(ii) by substituting ''5 December 1991'' for ''2 December 1988''.

(2) This section has effect in relation to gifts or inheritances taken on or after 5 December 2001.

Amendment of section 133 (exemption of certain policies of assurance) of Finance Act, 1993.

122.—Section 133 of the Finance Act, 1993, is amended—

(*a*) by substituting the following for subsection (1):

''(1) In this section—

'assurance company' has the meaning assigned to it by section 706 of the Taxes Consolidation Act, 1997;

'new policy' means a contract entered into by an assurance company which is a policy of assurance on the life of any person issued on or after 1 January 2001;

'old policy' means a contract entered into by an assurance company in the course of carrying on a foreign life assurance business within the meaning of section 451 of the Taxes Consolidation Act, 1997, and issued on or after 1 December 1992 and before 1 January 2001.'',

(*b*) in subsection (2) by substituting ''new policy or in an old policy'' for ''policy'', and

(*c*) by substituting the following for subsection (3):

''(3) Where—

(*a*) an interest in a new policy or in an old policy, as the case may be, which is comprised in a gift or inheritance came into the beneficial ownership of the disponer or became subject to the disposition prior to 15 February 2001, and

(*b*) the conditions at subparagraphs (i) and (iii) of subsection (2) are complied with,

then that subsection shall apply to that interest in a new policy or in an old policy, as the case may be, if, at the date of the disposition, the proper law of the disposition was not the law of the State.''.

PART 6

Miscellaneous

Interpretation (*Part 6*).

123.—In this Part ''Principal Act'' means the Taxes Consolidation Act, 1997.

Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.

124.—Section 1003 of the Principal Act is amended—

(*a*) in subsection (2)(*a*)(I) by inserting the following after ''cultural heritage of Ireland'':

''or whose import into the State would constitute a significant enhancement of the accumulated cultural heritage of Ireland'',

(*b*) in subsection (2)(*c*)—

(i) by substituting ''€100,000'' for ''€95,250'' in both places where it occurs, and

(ii) by substituting ''€6,000,000'' for ''€3,810,000'',

(*c*) in subsection (3)(*a*) by substituting ''shall, subject to paragraph (*d*), be estimated'' for ''shall be estimated'', and

(*d*) by inserting the following after subsection (3)(*c*):

''(*d*) Where the property is acquired at auction by the person making the gift, the market value of the property shall, for the purposes of this section, be deemed to include the auctioneer's fees in connection with the auction together with—

(i) any amount chargeable under the Value-Added Tax Act, 1972, by the auctioneer to the purchaser of the property in respect of those fees and in respect of which the purchaser is not entitled to any deduction or refund under that Act or any other enactment relating to value-added tax, or

(ii) in the case of an auction in a country other than the State, the amount chargeable to the purchaser of the property in respect of a tax chargeable under the law of that country which corresponds to value-added tax in the State and in relation to which the purchaser is not entitled to any deduction or refund.''.

Amendment of Chapter 5 (miscellaneous provisions) of Part 42 of Principal Act.

125.—Chapter 5 of Part 42 of the Principal Act is amended—

(*a*) in section 1006A (inserted by the Finance Act, 2000)—

(i) in subection (1)—

(I) by substituting the following for the definition of ''claim'':

'' 'claim' means a claim that gives rise to either or both a repayment of tax and a payment of interest payable in respect of such a repayment under any of the Acts and includes part of such a claim;'',

(II) by substituting the following for the definition of ''liability'':

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"'liability' means any tax due or estimated to be due under the Acts for any period or in respect of any event, as may be appropriate in the circumstances, and includes any interest due under the Acts in respect of that tax;",

(III) by substituting "credited;" for "credited." in the definition of "overpayment", and

(IV) by the insertion of the following after the definition of "overpayment":

"'tax' means any tax, duty, levy or other charge under any of the Acts.",

and

(ii) by inserting the following after subsection (4):

"(5) Any act to be performed or function to be discharged (other than the making of regulations) by the Revenue Commissioners which is authorised by this section may be performed or discharged by any of their officers acting under their authority.",

and

(*b*) in section 1006B (inserted by the Finance Act, 2000), by inserting the following after subsection (4):

"(5) Any act to be performed or function to be discharged (other than the making of regulations) by the Revenue Commissioners which is authorised by this section may be performed or discharged by any of their officers acting under their authority.".

Amendment of section 1086 (publication of names of tax defaulters) of Principal Act.

126.—(1) Section 1086 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) in the definition of "the Acts"—

(I) by substituting the following for paragraph (*e*):

"(*e*) the Stamp Duties Consolidation Act, 1999, and the enactments amending or extending that Act", and

(II) by inserting the following after paragraph (*f*):

"(*g*) the Customs Acts,

(*h*) the statutes relating to the duties of excise and to the management of those duties,",

and

(ii) by substituting the following for the definition of "tax":

'' 'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.'',

(*b*) in subsection (2)—

(i) in paragraph (*c*), by substituting the following for subparagraphs (ii) and (iii):

''(ii) except in the case of tax due by virtue of paragraphs (*g*) and (*h*) of the definition of 'the Acts', payment of interest on that tax, and

(iii) a fine or other monetary penalty in respect of that tax including penalties in respect of the failure to deliver any return, statement, declaration, list or other document in connection with the tax, or'',

and

(ii) in paragraph (*d*), by substituting the following for subparagraphs (ii) and (iii):

''(ii) except in the case of tax due by virtue of paragraphs (*g*) and (*h*) of the definition of 'the Acts', payment of interest on that tax, and

(iii) a fine or other monetary penalty in respect of that tax including penalties in respect of the failure to deliver any return, statement, declaration, list or other document in connection with the tax.'',

(*c*) in subsection (3), by substituting the following for paragraph (*b*):

''(*b*) the Revenue Commissioners may, at any time after each such list referred to in subsection (2) has been published as provided for in paragraph (*a*), cause any such list to be publicised or reproduced, or both, in whole or in part, in such manner, form or format as they consider appropriate.'',

and

(*d*) in subsection (4)—

(i) in paragraph (*a*), by substituting ''those paragraphs'' for ''that paragraph'',

(ii) in paragraph (*b*), by substituting ''applied,'' for ''applied, or'',

(iii) in paragraph (*c*), by substituting ''€12,700, or'' for ''€12,700.'', and

(iv) by inserting the following after paragraph (*c*):

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''(*d*) the amount of fine or other penalty included in the specified sum referred to in paragraph (*c*) or (*d*), as the case may be, of subsection (2) does not exceed 15 per cent of the amount of tax included in that specified sum.''.

(2) This section applies—

(*a*) as respects fines or other penalties, as are referred to in paragraphs (*a*) and (*b*) of section 1086(2), which are imposed by a court, and

(*b*) as respects specified sums, as are referred to in paragraphs (*c*) and (*d*) of section 1086(2), which the Revenue Commissioners accepted, or undertook to accept, in settlement of a specified liability,

on or after the passing of this Act.

Tax clearance.

127.—Part 48 of the Principal Act is, with effect from the passing of this Act, amended—

(*a*) in section 1094—

(i) in subsection (1)—

(I) in the definition of ''licence''—

(A) by substituting ''means a licence, permit or authorisation'' for ''means a licence or authorisation'',

(B) by substituting '','' for '';'' in each of the paragraphs (*h*), (*j*), (*k*) and (*l*), and

(C) by inserting the following after paragraph (*l*):

''(*m*) subsection (3) (inserted by the *Finance Act, 2002*) of section 122 of the Finance Act, 1992, and

(*n*) subsection (1A) (inserted by the *Finance Act, 2002*) of the Finance (1909-10) Act, 1910;'',

and

(II) in the definition of ''specified date'', by substituting ''paragraphs (*a*) to (*n*)'' for ''paragraphs (*a*) to (*j*)'',

(ii) by substituting the following for subsection (5):

''(5) An application for a tax clearance certificate under this section shall be made to the Collector-General in a form prescribed by the Revenue Commissioners or in such other manner as the Revenue Commissioners may allow.'', and

(iii) by inserting the following after subsection (7): PT.6 S.127

''(8) A tax clearance certificate to be issued by the Collector-General under this section may—

(*a*) be issued in electronic format, and

(*b*) with the agreement in writing of the applicant, be published in a secure electronic medium and be accessed by persons authorised by the applicant to do so.

(9) A tax clearance certificate shall be valid for the period specified in the certificate.'',

and

(*b*) by substituting the following for section 1095:

''Tax clearance certificates: general scheme.

1095.—(1) In this section—

'the Acts' means—

(*a*) the Tax Acts,

(*b*) the Capital Gains Tax Acts, and

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

and any instruments made thereunder;

'licence' has the same meaning as in section 1094;

'tax clearance certificate' shall be construed in accordance with subsection (3).

(2) The provisions of this section shall apply in relation to every application by a person to the Collector-General for a tax clearance certificate other than an application for such a certificate made—

(*a*) in relation to a licence, or

(*b*) pursuant to the requirements of—

(i) section 847A (inserted by the *Finance Act, 2002*),

(ii) the Standards in Public Office Act, 2001, or

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(iii) Regulation 6 of the Criminal Justice (Legal Aid) (Tax Clearance Certificate) Regulations 1999 (S.I. No. 135 of 1999).

(3) Subject to this section, where a person who is in compliance with the obligations imposed on the person by the Acts in relation to—

(*a*) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts, and

(*b*) the delivery of any returns to be made under the Acts,

applies to the Collector-General in that behalf the Collector-General shall issue to the person a certificate (in this section referred to as a 'tax clearance certificate') stating that the person is in compliance with those obligations.

(4) A tax clearance certificate shall not be issued to a person unless—

(*a*) that person and, in respect of the period of that person's membership, any partnership of which that person is or was a partner,

(*b*) in a case where that person is a partnership, each partner, and

(*c*) in a case where that person is a company, each person who is either the beneficial owner of, or able directly or indirectly to control, more than 50 per cent of the ordinary share capital of the company,

is in compliance with the obligations imposed on the person and each other person (including any partnership) by the Acts in relation to the matters specified in paragraphs (*a*) and (*b*) of subsection (3).

(5) Where a person who applies for a tax clearance certificate in accordance with subsection (3) (in this

section referred to as 'the first-mentioned person') carries on a business activity which was previously carried on by, or was previously carried on as part of a business activity by, another person (in this section referred to as 'the second-mentioned person') and—

(*a*) the second-mentioned person is a company connected (within the meaning of section 10 as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,

(*b*) the second-mentioned person is a company and the first-mentioned person is a partnership in which—

(i) a partner is or was able, or

(ii) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company, or

(*c*) the second-mentioned person is a partnership and the first-mentioned person is a company in which—

(i) a partner is or was able, or

(ii) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a

connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 50 per cent of the ordinary share capital of the company,

then, a tax clearance certificate shall not be issued by the Collector-General under subsection (3) to the first-mentioned person unless, in relation to that business activity, the second-mentioned person is in compliance with the obligations imposed on that person by the Acts in relation to the matters specified in paragraphs (*a*) and (*b*) of subsection (3).

(6) Subsections (5) to (9) of section 1094 shall apply to an application for a tax clearance certificate under this section as they apply to an application for a tax clearance certificate under that section.''.

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

128.—Schedule 29 to the Principal Act is amended—

(*a*) in column 1—

(i) by inserting the following after ''section 121'':

''section 172K(1)
section 172L(2)'',

and

(ii) by inserting the following after ''section 224A and Regulations under that section'':

''section 258(2)'',

and

(*b*) in column 2 by deleting ''section 172K(1)'', ''section 172L(2)'' and ''section 258(2)''.

Interest on unpaid and overpaid tax.

129.—(1) The Principal Act is amended—

(*a*) in sections 172K(6)(*b*)(inserted by the Finance Act, 1999), 240(3) (as amended by the Finance Act, 1998), 730G(7)(*b*)(inserted by the Finance Act, 2000), 739F(7)(*b*) (inserted by the Finance Act, 2000), 784E(6)(*b*) (inserted by the Finance Act, 1999) and 848M(6)(*b*) (inserted by the Finance Act, 2001), by substituting ''0.0322 per cent for each day or part of a day'' for ''1 per cent for each month or part of a month'',

(*b*) in section 531(9), by substituting ''0.0322 per cent for each day or part of a day on'' for ''1 per cent for each month or part of a month during'',

(*c*) in section 942(6)(*b*), by substituting ''0.0161 per cent, or such other rate (if any) prescribed by the Minister for Finance by regulations, for each day or part of a day'' for ''0.6 per cent, or such other rate (if any) prescribed by the Minister for Finance by regulations, for each month or part of a month'',

(*d*) in section 953(7), by substituting ''0.0161 per cent, or such other rate (if any) prescribed by the Minister for Finance by regulations, for each day or part of a day'' for ''0.5 per cent, or such other rate (if any) prescribed by the Minister for Finance by regulations, for each month or part of a month'',

(*e*) in section 991, by substituting the following for subsection (1):

> ''(1) Where any amount of tax which an employer is liable under this Chapter and any regulations under this Chapter to pay to the Revenue Commissioners is not so paid, simple interest on the amount shall be paid by the employer to the Revenue Commissioners, and such interest shall be calculated from the expiration of the period specified in the regulations for the payment of the amount and at the rate of 0.0322 per cent for each day or part of a day on which the amount remains unpaid.'',

and

(*f*) in section 1080—

(i) in paragraphs (*a*) and (*b*) of subsection (1), by substituting ''0.0322 per cent for each day or part of a day'' for ''1 per cent for each month or part of a month'', and

(ii) by deleting subsection (2).

(2) The Wealth Tax Act, 1975, is amended—

(*a*) in section 18(2), by substituting ''0.0322 per cent per day or part of a day'' for ''1 per cent per month or part of a month'', and

(*b*) in section 22(2)—

(i) by substituting ''0.0161 per cent of the amount to be repaid or retained for each day or part of a day'' for ''0.5 per cent of the amount to be repaid or retained for each month or part of a month'', and

(ii) by deleting the proviso.

(3) The Capital Acquisitions Tax Act, 1976, is amended—

(*a*) in section 41(2), by substituting ''0.0322 per cent per day or part of a day'' for ''1 per cent per month or part of a month'', and

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(*b*) in section 46(1), by substituting ''0.0161 per cent, or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each day or part of a day'' for ''0.5 per cent, or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month''.

(4) The Finance Act, 1983, is amended—

(*a*) in section 105(1)—

(i) by substituting ''0.0322 per cent per day or part of a day'' for ''1 per cent per month or part of a month'', and

(ii) by deleting the proviso,

and

(*b*) in section 107(2), by substituting ''0.0161 per cent, or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, of the amount to be repaid or retained for each day or part of a day'' for ''0.5 per cent, or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, of the amount to be repaid or retained for each month or part of a month''.

(5) Section 117 of the Finance Act, 1993, is amended in paragraph (*b*) by substituting ''0.0322 per cent per day or part of a day'' for ''one per cent per month or part of a month''.

(6) The Stamp Duties Consolidation Act, 1999, is amended—

(*a*) in sections 5(4) and 117(3), by substituting ''0.0322 per cent for each day or part of a day'' for ''1 per cent for each month or part of a month'',

(*b*) in sections 14(1), 75(3), 79(7) and 80(8), paragraphs (*a*) and (*b*) of section 81(7) and sections 87(3), 87A(4)(*a*), 91(2)(*c*)(i), 92(2)(*a*), 92A(3)(*a*), 92B(4)(*a*), 117(4), 123(7), 124(5)(*b*) and 125(6), by substituting ''0.0322 per cent for each day or part of a day'' for ''1 per cent per month or part of a month'',

(*c*) in subsections (4)(*b*) and (7) of section 29 and in subsections (4)(*b*) and (7) of section 53, by substituting ''0.0161 per cent, or such other rate (if any) as stands prescribed by the Minister by regulations, for each day or part of a day'' for ''0.5 per cent, or such other rate (if any) as stands prescribed by the Minister by regulations, for each month or part of a month'', and

(*d*) in section 117(2)(*b*)(ii), by substituting ''0.0161 per cent per day or part of a day'' for ''6 per cent per annum''.

(7) This section applies from 1 September 2002 to interest chargeable or payable under the provisions mentioned in *subsections (1)* to *(6)* in respect of an amount due to be paid or remitted or an amount to be repaid or retained, as the case may be, whether before, on or after that date in accordance with those provisions.

Amendment of Chapter 1 (income tax and corporation tax penalties) of Part 47 of Principal Act.

130.—Chapter 1 of Part 47 of the Principal Act is amended—

(*a*) in section 1053—

(i) by inserting the following after subsection (1):

''(1A) Where any person fails to comply with a requirement to deliver a return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29, by reason of fraud or neglect by that person, that person shall, subject to section 1054, be liable to a penalty of—

(*a*) €125, and

(*b*) the amount or, in the case of fraud, twice the amount of the difference specified in subsection (5A)'',

(ii) by inserting the following after subsection (5):

''(5A) The difference referred to in subsection (1A)(*b*) is the difference between—

(*a*) the amount of income tax paid by that person for the relevant years of assessment, and

(*b*) the amount of income tax which would have been payable for the relevant years of assessment if the return or statement had been delivered by that person and the return or statement had been correct.'',

and

(iii) in subsection (6) by substituting ''subsections (5) and (5A)'' for ''subsection (5)'',

(*b*) in section 1054(2)(*a*)—

(i) in subparagraph (i) by substituting ''€1,520'' for ''€1,265'', and

(ii) in subparagraph (ii) by substituting ''€950'' for ''€630'',

(*c*) in section 1061(1) by substituting ''preceding provisions of this Part, Chapter 4 of Part 38'' for ''preceding provisions of this Part'', and

(*d*) in section 1068 by substituting ''For the purposes of this Chapter, and Chapter 4 of Part 38'' for ''For the purposes of this Chapter''.

Amendment of section 1072 (penalties for fraudulently or negligently making incorrect returns, etc.) of Principal Act.

131.—Section 1072 of the Principal Act is amended by inserting the following after subsection (2):

''(2A) Where any company fails to comply with a requirement to deliver a return of a kind referred to in section 884, by reason of fraud or neglect by that company, that company shall be liable to a penalty of—

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(*a*) €630 in the case of neglect or €1,265 in the case of fraud, and

(*b*) (i) the amount in the case of neglect, or

(ii) twice the amount in the case of fraud,

of the difference specified in subsection (2B).

(2B) The difference referred to in subsection (2A)(*b*) is the difference between—

(*a*) the amount of corporation tax paid by the company for the accounting period or accounting periods comprising the period to which the return relates, and

(*b*) the amount of corporation tax which would have been payable for those periods if the return had been delivered by the company and the return had been correct.''.

Amendment of Chapter 4 (revenue powers) of Part 38 of Principal Act.

132.—Chapter 4 of Part 38 of the Principal Act is amended—

(*a*) in section 901 by inserting the following after subsection (3):

''(4) Where in compliance with an order made under subsection (2), a person makes available for inspection by an authorised officer, books, records or other documents, the person shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and any data equipment or any associated apparatus or material.

(5) Where in compliance with an order made under subsection (2), a person makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.'',

(*b*) in section 902A by inserting the following after subsection (6):

''(6A) Where in compliance with an order made under subsection (4), a person makes available for inspection by an authorised officer, books, records or other documents, the person shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and any data equipment or any associated apparatus or material.

(6B) Where in compliance with an order made under subsection (4), a person makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.'',

(*c*) by inserting the following after section 904H:

''Power of inspection: returns and collection of dividend withholding tax.

904I.—(1) In this section—

'accountable person' means—

(*a*) a company resident in the State which makes, and

(*b*) an authorised withholding agent who is treated under section 172H as making,

a relevant distribution;

'authorised withholding agent', 'dividend withholding tax', and 'relevant distribution' have, respectively, the meanings assigned to them by section 172A;

'authorised officer' means an officer of the Revenue Commissioners, authorised by them in writing to exercise the powers conferred by this section;

'records' means all records which relate to compliance by an accountable person with obligations under Chapter 8A of Part 6 including all declarations (and accompanying certificates) and notifications which are made, or, as the case may be, given to an accountable person in accordance with that Chapter of that Part and Schedule 2A.

(2) An authorised officer, having regard to Chapter 8A of Part 6, may at all reasonable times enter any premises or place of business of an accountable person for the purposes of auditing a return made by the accountable person under section 172K.

(3) Without prejudice to the generality of subsection (2), the authorised officer may—

(*a*) examine the procedures put in place by the accountable person for the purpose of ensuring compliance by the accountable person with its obligations under Chapter 8A of Part 6, and

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(*b*) check all, or a sample of or a class of, the records in the power, possession or procurement of the accountable person to determine whether—

(i) the procedures referred to in paragraph (*a*) have been observed in practice and whether they are adequate, and

(ii) there is information in the accountable person's possession which can reasonably be taken to indicate that the information contained in one or more of the records is or may be incorrect.

(4) An authorised officer may require an accountable person or an employee of the accountable person to produce records and to furnish information, explanations and particulars and to give all assistance which the authorised officer reasonably requires for the purposes of his or her audit and examination under subsections (2) and (3).

(5) An authorised officer may make extracts from or copies of all or any part of the records made available to him or her or require that copies of such records be made available to him or her, in exercising or performing his or her powers or duties under this section.

(6) An employee of an accountable person who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €1,265.

(7) An accountable person who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €19,045 and if that failure continues a further penalty of €2,535 for each day on which the failure continues.'',

(*d*) in section 905(1) by substituting the following for the definition of ''records'':

'' 'records' means any document or any other written or printed material in any form, and includes any

information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form—

(i) which relates to a business carried on by a person, or

(ii) which a person is obliged by any provision relating to tax to keep, retain, issue or produce for inspection or which may be inspected under any provision relating to tax;'',

(*e*) in section 907 by inserting the following after subsection (7):

''(7A) Where in compliance with the requirements of a notice served under subsection (7), a financial institution makes available for inspection by an authorised officer, books, records or other documents, the financial institution shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and any data equipment or any associated apparatus or material.

(7B) Where in compliance with the requirements of a notice served under subsection (7), a financial institution makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.'',

(*f*) in section 908 by inserting the following after subsection (6):

''(6A) Where in compliance with an order made under subsection (5), a financial institution makes available for inspection by an authorised officer, books, records or other documents, the financial institution shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form, and any data equipment or any associated apparatus or material.

(6B) Where in compliance with an order made under subsection (5), a financial institution makes books, records or other documents available for inspection by the authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.'',

and

(*g*) in section 908A—

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(i) in subsection (1)—

(I) by inserting the following before the definition of ''authorised officer'':

''' 'the Acts' means the Waiver of Certain Tax, Interest and Penalties Act, 1993, together with the meaning assigned to it by section 1078(1) and;'',

and

(II) by substituting the following for the definition of ''offence'':

''' 'offence' means an offence falling within any provision of the Acts;'',

and

(ii) by substituting the following for subsection (2):

''(2) If, on application made by an authorised officer, with the consent in writing of a Revenue Commissioner, a judge is satisfied, on information given on oath by the authorised officer, that there are reasonable grounds for suspecting—

(*a*) that an offence, which would result (or but for its detection would have resulted) in serious prejudice to the proper assessment and collection of tax, is being, has been, or is or was about to be, committed (having regard to the amount of a liability in relation to any person which might be, or might have been, evaded but for the detection of the relevant facts), and

(*b*) that there is material in possession of a financial institution specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the relevant facts,

the judge may make an order authorising the authorised officer to inspect and take copies of any entries in the books, records or other documents of the financial institution for the purposes of investigation of the offence.''.

Amendment of section 1078 (revenue offences) of Principal Act.

133.—Section 1078 of the Principal Act is amended—

(*a*) in subsection (2)(*g*) by substituting ''fails without reasonable excuse'' for ''knowingly or wilfully fails'', and

(*b*) by inserting the following after subsection (3A):

''(3B) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of

an offence under this section if the person fails or refuses to comply with an order referred to in subsection (3A).''. Pt.6 S.133

134.—Chapter 3 of Part 38 of the Principal Act is amended by inserting the following after section 898:

Amendment of Chapter 3 (returns of income and capital gains, etc.) of Part 38 of Principal Act.

''Format of returns etc.

898A.—Where a person is required under this Chapter—

(*a*) to deliver a return, or

(*b*) to give or furnish information,

then such return or such information shall, be made, given, or as the case may be, furnished in such form as the Revenue Commissioners may require.''.

135.—Part 48 of the Principal Act is amended by inserting the following after section 1096A:

Amendment of Part 48 (miscellaneous and supplemental) of Principal Act.

''Evidence of computer stored records in court proceedings etc.

1096B.—(1) In this section—

'copy record' means any copy of an original record or a copy of that copy made in accordance with either of the methods referred to in subsection (2) and accompanied by the certificate referred to in subsection (4), which original record or copy of an original record is in the possession of the Revenue Commissioners;

'original record' means any document, record or record of an entry in a document or record or information stored by means of any storage equipment, whether or not in a legible form, made or stored by the Revenue Commissioners for the purposes of or in connection with tax, and which is in the possession of the Revenue Commissioners;

'provable record' means an original record or a copy record and, in the case of an original record or a copy record stored in any storage equipment, whether or not in a legible form, includes the production or reproduction of the record in a legible form;

'storage equipment' means any electronic, magnetic, mechanical, photographic, optical or other device used for storing information;

'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) Where by reason of—

(*a*) the deterioration of,

(*b*) the inconvenience in storing, or

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(*c*) the technical obsolescence in the manner of retaining or storing,

any original record or any copy record, the Revenue Commissioners may—

(i) make a legible copy of that record, or

(ii) store information concerning that record otherwise than in a legible form so that the information is capable of being used to make a legible copy of that record,

and, they may, thereupon destroy that original record or that copy record.

(3) The legible copy of—

(*a*) a record made, or

(*b*) the information concerning such record stored,

in accordance with subsection (2) shall be deemed to be an original record for the purposes of this section.

(4) In any proceedings a certificate signed by an officer of the Revenue Commissioners stating that a copy record has been made in accordance with the provisions of subsection (2) shall be evidence of the fact of the making of such a copy record and that it is a true copy, unless the contrary is shown.

(5) In any proceedings a document purporting to be a certificate signed by an officer of the Revenue Commissioners, referred to in subsection (4), shall for the purposes of this section be deemed to be such a certificate and to be so signed unless the contrary is shown.

(6) A provable record shall be admissible in evidence in any proceedings and shall be evidence of any fact stated in it or event recorded by it unless the contrary is shown, or unless the court is not satisfied as to the reliability of the system used to make or compile—

(*a*) in the case of an original record, that record, and

(*b*) in the case of a copy record, the original on which it was based.

(7) In any proceedings a certificate signed by an officer of the Revenue Commissioners, stating that a full and detailed search has been made for a record of any event in every place where such records are kept and that no such record has been found, shall be evidence that

the event did not happen unless the contrary is shown or unless the court is not satisfied—

(*a*) as to the reliability of the system used to compile or make or keep such records,

(*b*) that, if the event had happened, a record would have been made of it, and

(*c*) that the system is such that the only reasonable explanation for the absence of such record is that the event did not happen.

(8) For the purposes of this section, and subject to the direction and control of the Revenue Commissioners, any power, function or duty conferred or imposed on them may be exercised or performed on their behalf by an officer of the Revenue Commissioners.''.

Write-off of certain repayable advances to Shannon Free Airport Development Company Limited.

136.—(1) In this section—

''Company'' means the Shannon Free Airport Development Company Limited;

''Minister'' means the Minister for Finance;

''specified housing and community services'' means housing (including workers' dwellings) and community services which were financed by means of advances made by the Minister to the Company under the specified sections out of the Central Fund or the growing produce thereof;

''specified sections'' means—

(*a*) section 4 of the Shannon Free Airport Development Company Limited (Amendment) Act, 1961, which relates to workers' dwellings,

(*b*) section 4 (as amended by the Shannon Free Airport Development Company Limited (Amendment) Act, 1970) of the Shannon Free Airport Development Company Limited (Amendment) Act, 1963, which relates to houses and community services, and

(*c*) section 4 of the Shannon Free Airport Development Company Limited (Amendment) Act, 1983, which relates to the limit on the aggregate amount of the advances under the sections referred to in *paragraphs (a)* and *(b)*.

(2) Where the Minister is satisfied that the Company has transferred to Clare County Council the interests that the Company has in property in respect of which advances were made to the Company under the specified sections out of the Central Fund or the growing produce thereof amounting to the sum of €11,409,916.13 for the provision of specified housing and community services, then that sum shall be written off.

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(3) (*a*) Subject to *paragraph (b)*, this section shall come into operation on such day as the Minister may by order appoint.

(*b*) An order under *paragraph (a)* shall not be made unless the Minister is satisfied that the property to which *subsection (2)* relates has been transferred by the Company to Clare County Council.

Transfer of income to Exchequer from issue of coin.

137.—The Economic and Monetary Union Act, 1998, is amended by inserting the following after section 14:

''14A.—(1) The Central Bank of Ireland shall—

(*a*) from time to time as directed by the Minister, pay into the Exchequer from the general fund of the Central Bank of Ireland an amount representing, in whole or in part, the accrued public moneys arising from the issue of coin, and

(*b*) debit the currency reserve by the amount.

(2) Amounts to be paid into the Exchequer under this section shall be calculated in a manner determined by the Minister after consultation with the Central Bank of Ireland.

(3) In this section 'accrued public moneys arising from the issue of coin' means—

(*a*) the accrued amount of the proceeds of the issue of coin paid into the general fund of the Central Bank of Ireland and carried in it to the credit of the currency reserve under—

(i) section 60(1) of the Central Bank Act, 1942,

(ii) section 9 of the Coinage Act, 1950,

(iii) section 7 of the Decimal Currency Act, 1969, and

(iv) sections 14 and 33(2),

(*b*) the accrued amount carried to the credit of the currency reserve under—

(i) section 14 of the Coinage Act, 1950, and

(ii) section 13 of the Decimal Currency Act, 1969,

and

(*c*) the amount carried to the credit of the currency reserve under section 60(3) of the Central Bank Act, 1942,

less—

(I) the accrued amount of sums defrayed out of the general fund of the Central Bank of Ireland and debited in it to the currency reserve under—

(A) section 60(2) of the Central Bank Act, 1942,

(B) sections 8 and 13 of the Coinage Act, 1950,

(C) sections 6 and 11 of the Decimal Currency Act, 1969, and

(D) sections 13 and 33(1),

(II) the accrued amount of sums debited from the currency reserve and carried to the credit of the superannuation reserve, and

(III) any sums previously paid into the Exchequer by virtue of this section.

(4) If the amount standing to the credit of the currency reserve in respect of the accrued public moneys arising from the issue of coin is, at any time, less than—

(*a*) the sum which stands to be defrayed out of the general fund of the Central Bank of Ireland and debited in it to the currency reserve in respect of the provision of coins under—

(i) section 13 or 33(1), or

(ii) section 6 of the Decimal Currency Act, 1969,

or

(*b*) the sum which stands to be defrayed from the general fund of the Central Bank of Ireland and debited in it to the currency reserve in respect of the redemption of coins under section 11 of the Decimal Currency Act, 1969,

then the Minister shall advance to the general fund of the Central Bank of Ireland from the Central Fund or the growing produce thereof an amount at least equal to the amount which stands to be defrayed from the general fund of the Central Bank of Ireland less the amount standing to the credit of the currency reserve in respect of the accrued public moneys arising from the issue of coin and the Central Bank of Ireland shall credit the currency reserve by this amount.''.

Miscellaneous technical amendments in relation to tax.

138.—The enactments specified in *Schedule 6* are amended to the extent and in the manner specified in that Schedule.

Amendment of Provisional Collection of Taxes Act, 1927.

139.—The Provisional Collection of Taxes Act, 1927, is amended—

(*a*) in section 1, by substituting the following for the definition of ''new tax'':

''the expression 'new tax' when used in relation to a resolution under this Act means a tax which was not in force immediately before the date on which the resolution is expressed to take effect or, where no such date is expressed, the passing of the resolution by Dáil Éireann;'',

and

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(*b*) in sections 2 and 3, by substituting ''immediately before the date on which the resolution is expressed to take effect or, where no such date is expressed, the passing of the resolution by Dáil Éireann'' for ''immediately before the end of the previous financial year'' in each place where it occurs.

Care and management of taxes and duties.

140.—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

141.—(1) This Act may be cited as the Finance Act, 2002.

(2) *Part 1* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

(3) *Part 2* (so far as relating to duties of excise) shall be construed together with the statutes which relate to the duties of excise and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts, 1972 to 2001, and may be cited together with those acts as the Value-Added Tax Acts, 1972 to 2002.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act, 1999, and the enactments amending or extending that Act.

(6) *Part 5* (so far as relating to capital acquisitions tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act.

(7) *Part 6* (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 2002*, and (so far as relating to residential property tax) shall be construed together with Part VI of the Finance Act, 1983, and the enactments amending or extending that Part and (so far as relating to gift tax or inheritance tax) shall be construed together with the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act.

(8) Except when otherwise expressly provided in *Part 1*, that Part applies as on and from 1 January 2002.

(9) In relation to *Part 3*:

(*a*) *sections 98* and *103* shall be taken to have come into force and shall take effect as on and from 1 March 2002;

(*b*) *paragraph (a)* of *section 106* comes into force and takes effect as on and from 1 May 2002;

(*c*) *section 108* comes into force and takes effect as on and from 1 September 2002;

(*d*) the provisions of this Part, other than those specified in *paragraphs (a), (b)* and *(c)* have effect as on and from the date of passing of this Act. PT.6 S.141

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

Section 3.

SCHEDULE 1

Amendments Consequential on Changes in Personal Tax Credits

As respects the year of assessment 2002 and subsequent years of assessment, the Taxes Consolidation Act, 1997, is amended as follows—

(*a*) in section 461, by substituting ''€3,040'' for ''€2,794'', in both places where it occurs, and ''€1,520'' for ''€1,397'',

(*b*) in section 461A, by substituting ''€300'' for ''€254'',

(*c*) in section 462, by substituting ''€1,520'' for ''€1,397'' in subsection (2),

(*d*) in section 463, by substituting ''€2,600'', ''€2,100'', ''€1,600'', ''€1,100'' and ''€600'', respectively, for ''€2,540'', ''€2,032'', ''€1,524'', ''€1,016'' and ''€508'' in subsection (2),

(*e*) in section 464, by substituting ''€410'' and ''€205'', respectively, for ''€408'' and ''€204'',

(*f*) in section 465, by substituting ''€500'' for ''€408'' in subsection (1),

(*g*) in section 466, by substituting ''€60'' for ''€56'' in subsection (2),

(*h*) in section 466A—

(i) by substituting ''€770'' for ''€762'' in subsection (2), and

(ii) by substituting ''total income'' for ''an income'' in paragraph (*a*) of subsection (6),

(*i*) in section 468, by substituting ''€800'' and ''€1,600'', respectively, for ''€762'' and ''€1,524'' in subsection (2), and

(*j*) in section 472, by substituting ''€660'' for ''€508'', in both places where it occurs, in subsection (4).

Section 24.

SCHEDULE 2

Codification of Reliefs for Lessors and Owner-Occupiers in respect of Certain Expenditure Incurred on Certain Residential Accommodation

PART 1

Amendment of Taxes Consolidation Act, 1997

1. Part 10 of the Taxes Consolidation Act, 1997, is amended by inserting the following after Chapter 10:

Reliefs for lessors and owner-occupiers in respect of expenditure incurred on the provision of certain residential accommodation

Interpretation (Chapter 11).

372AK.—In this Chapter—

'certificate of compliance' and 'certificate of reasonable cost' shall be construed, respectively, in accordance with section 372AM;

'conversion expenditure' shall be construed in accordance with section 372AN;

'eligible expenditure' shall be construed in accordance with section 372AN;

'existing building' has the same meaning as in section 372A;

'facade', in relation to a house, means the exterior wall of the house which fronts on to a street;

'guidelines', in relation to a house the site of which is wholly within the site of a qualifying park and ride facility, has the same meaning as in section 372U;

'house' includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building;

'lease', 'lessee' and 'lessor' have the same meanings, respectively, as in Chapter 8 of Part 4;

'Minister', except where the context otherwise requires, means the Minister for the Environment and Local Government;

'necessary construction' has the same meaning as in section 372A and any reference in this Chapter (other than in section 372AR(1)(*a*)) to construction shall, in the case of a house which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, apply as if it were a reference to necessary construction, unless the context requires otherwise;

'premium' has the same meaning as in Chapter 8 of Part 4;

'qualifying expenditure' shall be construed in accordance with section 372AQ;

'qualifying lease' shall be construed in accordance with section 372AO;

'qualifying period' shall be construed in accordance with section 372AL;

'qualifying park and ride facility' has the same meaning as in section 372U(1);

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'qualifying premises' shall be construed in accordance with section 372AM;

'qualifying rural area' means any area described in Schedule 8A;

'qualifying street' means a street specified as a qualifying street under section 372BA;

'qualifying student accommodation area' means an area or areas specified as a qualifying area in the relevant guidelines;

'qualifying town area' means an area or areas specified as a qualifying area under section 372AB;

'qualifying urban area' means an area or areas specified as a qualifying area under section 372B;

'refurbishment' means—

(*a*) in relation to a building or a part of a building other than a special specified building, either or both of the following—

(i) the carrying out of any works of construction, reconstruction, repair or renewal, and

(ii) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works or the provision of such facilities is certified by the Minister, in any certificate of reasonable cost or certificate of compliance, as the case may be, granted by the Minister under section 372AM,

(*b*) in relation to a facade, any works of construction, reconstruction, repair or renewal in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of a facade, and

(*c*) in relation to a special specified building, any works of construction, reconstruction, repair or renewal, including the provision or improvement of water, sewerage or heating facilities, carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of the building or for the purposes of compliance with the requirements of the Housing (Standards for Rented Houses) Regulations 1993 (S.I. No. 147 of 1993),

but paragraph (*c*) shall not apply for the purposes of sections 372AQ and 372AR;

'refurbishment expenditure' shall be construed in accordance with section 372AN;

'relevant cost' has the same meaning as in section 372AP;

'relevant guidelines', in relation to a house or building the site of which is wholly within a qualifying student accommodation area, means guidelines entitled 'Guidelines on Residential Developments for 3rd Level Students' issued by the Minister for Education and Science in consultation with the Minister and with the consent of the Minister for Finance, or such other guidelines amending or replacing those guidelines issued in accordance with section 372AM(1)(*c*);

'relevant local authority', in relation to—

(*a*) a qualifying urban area, means the county council or the city council or the borough council or, where appropriate, the town council, within the meaning of the Local Government Act, 2001, in whose functional area the area is situated, and

(*b*) the construction of a house the site of which is wholly within the site of a qualifying park and ride facility and which is a qualifying premises for the purposes of this Chapter, has the same meaning as it has in section 372U(1) in relation to the construction or refurbishment of a park and ride facility or a qualifying premises within the meaning of section 372W;

'relevant period' has the meaning assigned to it in section 372AP;

'rent' has the same meaning as in Chapter 8 of Part 4;

'replacement building' has the same meaning as in section 372A;

'special qualifying premises' shall be construed in accordance with section 372AM;

'special specified building' and 'specified building' have the same meanings, respectively, as in section 372AN(6);

'street' includes part of a street and the whole or part of any road, square, quay or lane;

'tax incentive area' means—

(*a*) a qualifying urban area,

(*b*) a qualifying rural area,

(*c*) the site of a qualifying park and ride facility,

(*d*) a qualifying town area, or

(*e*) a qualifying student accommodation area;

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'total floor area' means the total floor area of a house measured in the manner referred to in section 4(2)(*b*) of the Housing (Miscellaneous Provisions) Act, 1979.

Qualifying period.

372AL.—(1) For the purposes of this Chapter, 'qualifying period', in relation to—

(*a*) a qualifying urban area, means, subject to section 372B, the period commencing on 1 August 1998 and ending on—

(i) 31 December 2002, or

(ii) where subsection (2) applies, 31 December 2004,

(*b*) a qualifying street, means, subject to section 372BA, the period commencing on 6 April 2001 and ending on 31 December 2004,

(*c*) a qualifying rural area, means—

(i) for the purposes of sections 372AP and (in so far as it relates to that section) section 372AS, the period commencing on 1 June 1998 and ending on 31 December 2004, and

(ii) for the purposes of section 372AR and (in so far as it relates to that section) section 372AS, the period commencing on 6 April 1999 and ending on 31 December 2004,

(*d*) the site of a qualifying park and ride facility, means the period commencing on 1 July 1999 and ending on 30 June 2004,

(*e*) a qualifying town area, means, subject to section 372AB, the period commencing on 1 April 2000 and ending on 31 December 2003,

(*f*) a qualifying student accommodation area, means the period commencing on 1 April 1999 and ending on—

(i) 31 March 2003, or

(ii) 30 September 2005, in relation to a building the site of which is wholly within such an area, where an application for planning permission, in so far as it is required, for the construction, conversion or, as the case may be, refurbishment of the building was received by a planning authority on or before 30 September 2003,

and

(*g*) a special specified building, means the period commencing on 6 April 2001. SCH.2

(2) (*a*) This subsection shall apply where the relevant local authority gives a certificate in writing on or before 30 April 2003, to the person constructing, converting or, as the case may be, refurbishing a building or part of a building, the site of which is wholly within a qualifying urban area, stating that it is satisfied that not less than 15 per cent of the total cost of constructing, converting or refurbishing the building or the part of the building, as the case may be, and the site thereof had been incurred on or before 31 December 2002.

(*b*) In considering whether to give a certificate referred to in paragraph (*a*), the relevant local authority shall have regard only to guidelines issued by the Department of the Environment and Local Government in relation to the giving of such certificates.

Grant of certain certificates and guidelines, qualifying and special qualifying premises.

372AM.—(1) (*a*) The Minister may grant a certificate (in this Chapter referred to as a 'certificate of compliance') for the purposes of section 372AP or 372AR, as the case may be, certifying that, at the time of granting the certificate and on the basis of the information available to the Minister at that time—

(i) the house to which the certificate relates complies—

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

(II) in the case of conversion or refurbishment, with such conditions, if any, as may be determined by the Minister from time to time for the purposes of section

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5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvement of houses and the provision of water, sewerage and other services in houses,

(ii) the total floor area of that house is within the relevant floor area limits as specified in subsection (4), and

(iii) in the case of refurbishment, the refurbishment work was necessary for the purposes of ensuring the suitability as a dwelling of any house in the building or the part of the building and whether or not the number of houses in the building or the part of the building, or the shape or size of any such house, is altered in the course of such refurbishment,

but—

(A) in the case of a house the site of which is wholly within a qualifying town area, such certificate shall be granted only where an application has been received by the Minister within a period of one year from the day next after the end of the qualifying period, and

(B) in the case of a house, the site of which is wholly within a qualifying student accommodation area, such certificate shall be granted having regard to the relevant guidelines.

(*b*) (i) The Minister may grant a certificate (in this Chapter referred to as a 'certificate of reasonable cost') for the purposes of section 372AP or 372AR, as the case may be, certifying that, at the time of granting the certificate and on the basis of the information available to the Minister at that time—

(I) the house to which the certificate relates complies—

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

(B) in the case of conversion or refurbishment, with such conditions, if any, as may be determined by the Minister from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvement of houses and the provision of water, sewerage and other services in houses,

(II) the amount specified in the certificate in relation to the cost of construction of, conversion into, or, as the case may be, refurbishment of, the house to which the certificate relates appears to the Minister to be reasonable,

(III) the total floor area of that house is within the relevant floor area

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limits as specified in subsection (4), and

(IV) in the case of refurbishment, the refurbishment work was necessary for the purposes of ensuring the suitability as a dwelling of any house in the building or the part of the building and whether or not the number of houses in the building or the part of the building, or the shape or size of any such house, is altered in the course of such refurbishment,

but—

(A) in the case of a house, the site of which is wholly within a qualifying town area, such certificate shall be granted only where an application has been received by the Minister within a period of one year from the day next after the end of the qualifying period, and

(B) in the case of a house, the site of which is wholly within a qualifying student accommodation area, such certificate shall be granted having regard to the relevant guidelines.

(ii) Section 18 of the Housing (Miscellaneous Provisions) Act, 1979, applies, with any necessary modifications, to a certificate of reasonable cost as if it were a certificate of reasonable value within the meaning of that section.

(*c*) The Minister for Education and Science may, in relation to a house or building the site of which is wholly within a qualifying student accommodation area, in consultation with the

Minister and with the consent of the Minister for Finance—

(i) issue guidelines for the purposes of this Chapter and, without prejudice to the generality of the foregoing, such guidelines may include provisions in relation to all or any one or more of the following—

(I) the design and the construction of, conversion into, or refurbishment of, houses,

(II) the total floor area and dimensions of rooms within houses, measured in such manner as may be determined by the Minister,

(III) the provision of ancillary facilities and amenities in relation to houses,

(IV) the granting of certificates of reasonable cost and of certificates of compliance,

(V) the designation of qualifying areas,

(VI) the terms and conditions relating to qualifying leases, and

(VII) the educational institutions and the students attending those institutions for whom the accommodation is provided,

and

(ii) amend or replace relevant guidelines in like manner.

(2) Subject to this section, a house is a qualifying premises for the purposes of section 372AP or 372AR, as the case may be, where—

(*a*) the house fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, or the site of the house is wholly within a tax incentive area,

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(*b*) the house is used solely as a dwelling,

(*c*) the house complies with the requirements of subsection (4) in respect of its total floor area,

(*d*) there is in force in respect of the house—

(i) a certificate of compliance or,

(ii) if it is not a house provided for sale, a certificate of reasonable cost the amount specified in which in respect of the cost of construction of the house, the cost of conversion in relation to the house or the cost of the refurbishment in relation to the house is not less than the expenditure actually incurred on such construction, conversion, or, as the case may be, refurbishment,

but where, in the case of section 372AP, the refurbishment expenditure or, in the case of section 372AR, the qualifying expenditure relates solely to the refurbishment of a facade, this paragraph shall not apply,

(*e*) in the case of a house the site of which is wholly within the site of a qualifying park and ride facility, the relevant local authority gives to the person constructing the house a certificate in writing stating that it is satisfied that the house or, in a case where the house is one of a number of houses in a single development, the development of which it is part complies with the requirements laid down in the guidelines in relation to the development of certain residential accommodation at a park and ride facility, and

(*f*) in so far as section 372AP is concerned, the house—

(i) where the eligible expenditure has been incurred on the construction of the house, without having been used is first let in its entirety under a qualifying lease,

(ii) where the eligible expenditure incurred is conversion expenditure in relation to the house, without having been used subsequent to the incurring of the expenditure on the conversion is first let in its entirety under a qualifying lease, and

(iii) where the eligible expenditure incurred is refurbishment expenditure in relation to the house, on the

date of completion of the refurbishment to which the expenditure relates is let (or, if not let on that date, is, without having been used after that date, first let) in its entirety under a qualifying lease,

and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease.

(3) Subject to this section, a house is a special qualifying premises for the purposes of section 372AP where—

(*a*) the house is comprised in a special specified building,

(*b*) the house is used solely as a dwelling,

(*c*) on the date of completion of the refurbishment to which the refurbishment expenditure in relation to the house relates, the house is let (or, if not let on that date, the house is, without having been used after that date, first let) in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease, and

(*d*) the house is not a house on which expenditure has been incurred which qualified, or on due claim being made would qualify, for relief under—

(i) section 372AP on the basis that the house is a qualifying premises, or

(ii) any other provision of this Part.

(4) A house is not a qualifying premises for the purposes of section 372AP or 372AR unless—

(*a*) where the house fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, or where its site is wholly within—

(i) a qualifying urban area, or

(ii) the site of a qualifying park and ride facility,

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the total floor area of the house is not less than 38 square metres and not more than 125 square metres,

(*b*) where the site of the house is wholly within a qualifying rural area, the total floor area of the house is not less than 38 square metres and—

(i) in the case of section 372AP—

(I) not more than 140 square metres, if the eligible expenditure incurred was incurred on the construction of the house before 6 December 2000,

(II) not more than 150 square metres, if the eligible expenditure incurred on or in relation to the house was conversion expenditure or refurbishment expenditure incurred before 6 December 2000, or

(III) not more than 175 square metres if the eligible expenditure incurred on or in relation to that house was or is incurred on or after 6 December 2000,

and

(ii) in the case of section 372AR, not more than 210 square metres,

(*c*) where the site of the house is wholly within a qualifying town area, the total floor area of the house is not less than 38 square metres and—

(i) in the case of section 372AP—

(I) not more than 125 square metres, or

(II) not more than 150 square metres, if the eligible expenditure incurred on or in relation to the house is conversion expenditure or refurbishment expenditure incurred on or after 6 April 2001,

and

(ii) in the case of section 372AR—

(I) not more than 125 square metres, or

(II) not more than 210 square metres, if the qualifying expenditure

incurred on or in relation to the house is incurred on or after 6 April 2001 on the refurbishment of the house,

and

(*d*) where the site of the house is wholly within a qualifying student accommodation area, the total floor area of the house complies with the requirements of the relevant guidelines.

(5) A house is not a qualifying premises or a special qualifying premises for the purposes of section 372AP if—

(*a*) it is occupied as a dwelling by any person connected with the person entitled to a deduction under that section in respect of the eligible expenditure incurred on or in relation to the house, and

(*b*) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(6) (*a*) A house—

(i) which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, or

(ii) the site of which is wholly within a qualifying urban area or a qualifying town area,

is not a qualifying premises for the purposes of section 372AP or 372AR unless the house or, in a case where the house is one of a number of houses in a single development, the development of which it is a part complies with such guidelines as may from time to time be issued by the Minister, with the consent of the Minister for Finance, for the purposes of furthering the objectives of urban renewal.

(*b*) Without prejudice to the generality of paragraph (*a*), guidelines issued for the purposes of that paragraph may include provisions in relation to all or any one or more of the following—

(i) the design and the construction of, conversion into, or, as the case may be, refurbishment of, houses,

(ii) the total floor area and dimensions of rooms within houses, measured in

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such manner as may be determined by the Minister,

(iii) the provision of ancillary facilities and amenities in relation to houses, and

(iv) the balance to be achieved between houses of different types and sizes within a single development of 2 or more houses or within such a development and its general vicinity having regard to the housing existing or proposed in that vicinity.

(7) A house, the site of which is wholly within a qualifying rural area, is not a qualifying premises for the purposes of section 372AP unless throughout the period of any qualifying lease related to that house, the house is used as the sole or main residence of the lessee in relation to that qualifying lease.

(8) A house which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street is not a qualifying premises for the purposes of section 372AP or 372AR unless—

(*a*) the house is comprised in the upper floor or floors of an existing building or a replacement building, and

(*b*) the ground floor of such building is in use for commercial purposes or, where it is temporarily vacant, it is subsequently so used.

(9) A house, the site of which is wholly within a qualifying student accommodation area, is not a qualifying premises for the purposes of section 372AP unless throughout the relevant period it is used for letting to and occupation by students in accordance with the relevant guidelines.

(10) (*a*) A house is not a special qualifying premises for the purposes of section 372AP if the lessor has not complied with all the requirements of—

(i) the Housing (Standards for Rented Houses) Regulations 1993 (S.I. No. 147 of 1993),

(ii) the Housing (Rent Books) Regulations 1993 (S.I. No. 146 of 1993), and

(iii) the Housing (Registration of Rented Houses) Regulations 1996 (S.I. No. 30 of 1996), as amended by the Housing (Registration of Rented Houses) (Amendment) Regulations 2000 (S.I. No. 12 of 2000).

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(*b*) A house is not a special qualifying premises for the purposes of section 372AP unless the house or, in a case where the house is one of a number of houses in a single development, the development of which it is a part complies with such guidelines as may from time to time be issued by the Minister, with the consent of the Minister for Finance, in relation to the refurbishment of houses as special qualifying premises.

(*c*) Without prejudice to the generality of paragraph (*b*), guidelines issued for the purposes of that paragraph may include provisions in relation to refurbishment of houses and the provision of ancillary facilities and amenities in relation to houses.

(11) A house is not a qualifying premises for the purposes of section 372AP or 372AR, or a special qualifying premises for the purposes of section 372AP, unless any person authorised in writing by the Minister for the purposes of those sections is permitted to inspect the house at all reasonable times on production, if so requested by a person affected, of his or her authorisation.

Eligible expenditure: lessors.

372AN.—(1) Expenditure is eligible expenditure for the purposes of this Chapter where it is—

(*a*) expenditure incurred on—

(i) the construction of a house, other than a house referred to in subparagraph (ii), or

(ii) the necessary construction of a house which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street,

(*b*) conversion expenditure, or

(*c*) refurbishment expenditure.

(2) In this Chapter 'conversion expenditure' means, subject to subsection (3), expenditure incurred on—

(*a*) the conversion into a house of—

(i) a building which fronts on to a qualifying street or the site of which is wholly within a tax incentive area other than the site of a qualifying park and ride facility, or

(ii) a part of a building which fronts on to a qualifying street or the site of

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which is wholly within a qualifying urban area or a qualifying town area,

where the building or, as the case may be, the part of the building has not been previously in use as a dwelling, and

(*b*) the conversion into 2 or more houses of—

(i) a building which fronts on to a qualifying street or the site of which is wholly within a tax incentive area other than the site of a qualifying park and ride facility, or

(ii) a part of a building which fronts on to a qualifying street or the site of which is wholly within a qualifying urban area or a qualifying town area,

where before the conversion the building or, as the case may be, the part of the building had not been in use as a dwelling or had been in use as a single dwelling,

and references in this Chapter to 'conversion', 'conversion into a house' and 'expenditure incurred on conversion' shall be construed accordingly.

(3) For the purposes of subsection (2), expenditure incurred on the conversion of a building or a part of a building includes expenditure incurred in the course of the conversion on either or both of the following—

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or the part of the building, as the case may be, or any outoffice appurtenant to or usually enjoyed with that building or part, but does not include—

(i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or

(ii) any expenditure attributable to any part (in this subsection referred to as a 'non-residential unit') of the building or, as the case may be, the part of the building which on completion of the conversion is not a house.

(4) For the purposes of subsection (3)(ii), where expenditure is attributable to a building or a part of a building in general and not directly to any particular house or non-residential unit (within the meaning

given by that subsection) comprised in the building or the part of the building on completion of the conversion, then such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building or the part of the building, as the case may be.

(5) (*a*) For the purposes of this Chapter 'refurbishment expenditure' means expenditure incurred on—

(i) (I) the refurbishment of a specified building, and

(II) in the case of a specified building the site of which is wholly within a qualifying town area, the refurbishment of a facade,

or

(ii) the refurbishment of a special specified building,

other than expenditure attributable to any part (in this subsection and in subsection (6) referred to as a 'non-residential unit') of the building which on completion of the refurbishment is not a house.

(*b*) For the purposes of paragraph (*a*), where expenditure is attributable to—

(i) the specified building, or

(ii) the special specified building,

as the case may be, in general and not directly to any particular house or non-residential unit comprised in the building on completion of the refurbishment, then such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building.

(6) For the purposes of subsection (5)—

'special specified building' means a building or part of a building—

(*a*) in which before the refurbishment to which the refurbishment expenditure relates there is one or more than one house, and

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(*b*) which on completion of that refurbishment contains, whether in addition to any non-residential unit or not, one or more than one house;

'specified building' means—

(*a*) a building which fronts on to a qualifying street or the site of which is wholly within a tax incentive area other than the site of a qualifying park and ride facility, or

(*b*) a part of a building which fronts on to a qualifying street or the site of which is wholly within a qualifying urban area or a qualifying town area,

and in which before the refurbishment to which the refurbishment expenditure relates—

(i) there is one or more than one house—

(I) in the case of a building, the site of which is wholly within a qualifying rural area, or

(II) in the case of a building or part of a building, the site of which is wholly within a qualifying town area,

and

(ii) there are 2 or more houses—

(I) in the case of a building or part of a building which fronts on to a qualifying street or the site of which is wholly within a qualifying urban area, or

(II) in the case of a building the site of which is wholly within a qualifying student accommodation area,

and which on completion of that refurbishment contains, whether in addition to any non-residential unit or not—

(A) in the case of a building or part of a building to which paragraph (i) applies, one or more than one house,

(B) in the case of a building or part of a building to which paragraph (ii) applies, 2 or more houses.

(7) Other than in relation to a special qualifying premises, references in this section to the construction of, conversion into, or, as the case may be, refurbishment of, any premises shall be construed as including references to the development of the land on which the premises is situated or which is used in the provision of gardens, grounds, access or amenities

in relation to the premises and, without prejudice to the generality of the foregoing, as including in particular— SCH.2

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

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

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

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

Qualifying lease.

372AO.—(1) In this section 'market value', in relation to a building, structure or house, means the price which the unencumbered fee simple of the building, structure or house would fetch if sold in the open market in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the building, structure or house, less the part of that price which would be attributable to the acquisition of, or of rights in or over, the land on which the building, structure or house is constructed.

(2) Subject to subsection (4), a lease of a house is a qualifying lease for the purposes of this Chapter where the consideration for the grant of the lease consists—

(*a*) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(*b*) of payments of the kind mentioned in paragraph (*a*), together with a payment by means of a premium which—

(i) in the case of the construction of a house, does not exceed 10 per cent of the relevant cost of the house,

(ii) in the case of the conversion of a building into a house, does not exceed 10 per cent of the market value of the house at the time the conversion is completed, and

(iii) in the case of the refurbishment of a house—

(I) is payable on or subsequent to the date of the completion of the

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refurbishment to which the refurbishment expenditure relates or which, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment, and

(II) does not exceed 10 per cent of the market value of the house at the time of the completion of the refurbishment to which the refurbishment expenditure relates.

(3) For the purposes of subparagraph (ii) or (iii) of subsection (2)(*b*), as the case may be, where a house is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house at the time the conversion is completed or, as the case may be, at the time of the completion of the refurbishment to which the refurbishment expenditure relates shall be taken to be an amount which bears to the market value of the building at that time the same proportion as the total floor area of the house bears to the total floor area of the building.

(4) A lease is not a qualifying lease for the purposes of this Chapter—

(*a*) if the terms of the lease contain any provision enabling the lessee or any other person, directly or indirectly, at any time to acquire any interest in the house to which the lease relates for a consideration less than that which might be expected to be given at that time for the acquisition of the interest if the negotiations for that acquisition were conducted in the open market at arm's length,

(*b*) where the lease relates to a qualifying rural area, if the duration of the lease is for a period of less than 3 months, or

(*c*) where the lease relates to a qualifying student accommodation area, if the lease does not comply with the requirements of the relevant guidelines.

Relief for lessors.

372AP.—(1) In this section—

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

'relevant cost', in relation to a house, means, subject to subsection (6), an amount equal to the aggregate of—

(*a*) (i) where the eligible expenditure is on the construction of the house, the expenditure incurred on the acquisition of,

or of rights in or over, any land on which the house is situated, or

(ii) where the eligible expenditure is conversion expenditure or refurbishment expenditure, the expenditure incurred on the acquisition of, or of rights in or over—

(I) any land on which the house is situated, and

(II) any building in which the house is comprised,

and

(*b*) the expenditure actually incurred on the construction of, conversion into, or, as the case may be, refurbishment of the house;

'relevant period', in relation to the incurring of eligible expenditure on or in relation to a qualifying premises or a special qualifying premises, means—

(*a*) where the eligible expenditure is incurred on the construction of, or in relation to the conversion of a building into, a qualifying premises, the period of 10 years beginning on the date of the first letting of the qualifying premises under a qualifying lease, and

(*b*) where—

(i) the eligible expenditure incurred is refurbishment expenditure in relation to a qualifying premises or a special qualifying premises, the period of 10 years beginning on the date of the completion of the refurbishment to which the refurbishment expenditure relates, or

(ii) where the qualifying premises or, as the case may be, the special qualifying premises was not let under a qualifying lease on the date referred to in subparagraph (i), the period of 10 years beginning on the date of the first such letting after the date of such completion;

'relevant price paid', in relation to the purchase by a person of a house, means the amount which bears to the net price paid by such person on that purchase the same proportion as the amount of the eligible expenditure actually incurred on or in relation to the house, which is to be treated under section 372AS(1) as having been incurred in the qualifying period, bears to the relevant cost in relation to that house.

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(2) Subject to subsections (3), (4) and (5), where a person, having made a claim in that behalf, proves to have incurred eligible expenditure on or in relation to a house which is a qualifying premises or a special qualifying premises—

(*a*) such person is entitled, in computing for the purposes of section 97(1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises or, as the case may be, the special qualifying premises, to a deduction of so much (if any) of that expenditure as is to be treated under section 372AS(1) or under this section as having been incurred by such person in the qualifying period, and

(*b*) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97(2).

(3) (*a*) Where the eligible expenditure incurred is refurbishment expenditure in relation to a house which is a special qualifying premises—

(i) the deduction to be given under subsection (2)(*a*) shall be given—

(I) for the chargeable period in which the expenditure is incurred or, if the special qualifying premises was not let under a qualifying lease during that chargeable period, the chargeable period in which occurs the date of the first such letting after the expenditure is incurred, and

(II) for any subsequent chargeable period in which that premises continues to be a special qualifying premises,

and

(ii) the deduction for each such chargeable period shall be of an amount equal to 15 per cent of the expenditure to which subsection (2)(*a*) refers.

(*b*) For the purposes of paragraph (*a*)—

(i) the aggregate amount to be deducted by virtue of that paragraph shall not exceed 100 per cent of the expenditure to which subsection (2)(*a*) refers, and

(ii) where a chargeable period consists of a period less than one year in length, the amount of the deduction to be

given for the chargeable period shall be proportionately reduced. SCH.2

(4) (*a*) This subsection applies to any premium or other sum which—

(i) is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, and

(ii) where the eligible expenditure incurred is refurbishment expenditure in relation to a qualifying premises or a special qualifying premises—

(I) is payable on or subsequent to the date of completion of the refurbishment to which the refurbishment expenditure relates, or

(II) if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment.

(*b*) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the eligible expenditure to be treated as having been incurred in the qualifying period on or in relation to the qualifying premises or the special qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the eligible expenditure actually incurred on or in relation to the qualifying premises or, as the case may be, the special qualifying premises and which is to be treated under section 372AS(1) as having been incurred in the qualifying period bears to the whole of the eligible expenditure incurred on or in relation to the qualifying premises or

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the special qualifying premises, as the case may be.

(5) (*a*) A person is entitled to a deduction by virtue of subsection (2) in respect of eligible expenditure incurred on a qualifying premises at a park and ride facility only in so far as that expenditure when aggregated with—

(i) other eligible expenditure, if any, incurred on other qualifying premises at the park and ride facility and in respect of which a deduction is to be made or would, but for this subsection, be made, and

(ii) other expenditure, if any, incurred at the park and ride facility, in respect of which there is provision for a deduction under section 372AR,

does not exceed 25 per cent of the total expenditure incurred at the park and ride facility in respect of which an allowance or deduction is to be made or would, but for this subsection or section 372W(2)(*c*) or 372AR(5), be made by virtue of any provision of this Chapter or Chapter 9.

(*b*) A person who has incurred eligible expenditure on a qualifying premises at a park and ride facility and who claims to have complied with the requirements of paragraph (*a*) in relation to that expenditure, shall be deemed not to have so complied unless the person has received from the relevant local authority a certificate in writing issued by that authority stating that it is satisfied that those requirements have been met.

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

(*a*) of the eligible expenditure incurred on the construction, conversion or, as the case may be, refurbishment of that building or those buildings, and

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

for the purposes of determining the eligible expenditure incurred on or in relation to the qualifying premises or the special qualifying premises, as the case

may be, and the relevant cost in relation to the qualifying premises or the special qualifying premises, as the case may be.

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

(*a*) the house ceases to be a qualifying premises or a special qualifying premises, as the case may be, or

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

then, the person who before the occurrence of the event received or was entitled to receive a deduction or, as the case may be, deductions under subsection (2) in respect of eligible expenditure incurred on or in relation to that premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from that premises equal to the amount of that deduction or, as the case may be, the aggregate amount of those deductions.

(8) (*a*) Where the event mentioned in subsection (7)(*b*) occurs in the relevant period in relation to a house which is a qualifying premises or a special qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of eligible expenditure on or in relation to the house equal to the amount which under section 372AS(1) or under this section (apart from subsection (4)(*b*)) the lessor was treated as having incurred in the qualifying period on or in relation to the house.

(*b*) Where a person purchases a house to which paragraph (*a*) applies, the amount treated under that paragraph as having been incurred by such person shall not exceed the relevant price paid by such person on the purchase.

(9) Subject to subsection (10), where eligible expenditure is incurred on or in relation to a house and—

(*a*) where the eligible expenditure was expenditure on the construction of the house, before the house is used it is sold, or

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(*b*) where the eligible expenditure was conversion expenditure or refurbishment expenditure, before the house is used subsequent to the incurring of that expenditure it is sold,

then, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period eligible expenditure on or in relation to the house equal to the lesser of—

(i) the amount of such expenditure which is to be treated under section 372AS(1) as having been incurred in the qualifying period, and

(ii) the relevant price paid by such person on the purchase,

but, where the house is sold more than once before it is used, or, as the case may be, before the house is used subsequent to the incurring of the expenditure, this subsection shall apply only in relation to the last of those sales.

(10) Where eligible expenditure is incurred on or in relation to a house by a person carrying on a trade or part of a trade which consists, as to the whole or any part of that trade, of the construction, conversion or refurbishment of buildings with a view to their sale and the house is sold in the course of that trade or, as the case may be, that part of that trade—

(*a*) where the eligible expenditure was expenditure on the construction of the house—

(i) before the house is used, or

(ii) where a house, the site of which is wholly within a qualifying student accommodation area, is sold on or after 5 December 2001, within a period of one year after it commences to be used,

and

(*b*) where the eligible expenditure was conversion expenditure or refurbishment expenditure—

(i) before the house is used subsequent to the incurring of that expenditure, or

(ii) where a house, the site of which is wholly within a qualifying student accommodation area, is sold on or after 5 December 2001, within a period of one year after it commences to be used subsequent to the incurring of that expenditure,

then— SCH.2

(I) the person (in this subsection referred to as the 'purchaser') who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period eligible expenditure on or in relation to the house equal to the relevant price paid by the purchaser on the purchase (in this subsection referred to as the 'first purchase'), and

(II) in relation to any subsequent sale or sales of the house before the house is used, or, as the case may be, before the house is used subsequent to the incurring of the expenditure, subsection (9) shall apply as if the reference to the amount of eligible expenditure which is to be treated as having been incurred in the qualifying period were a reference to the relevant price paid on the first purchase.

(11) Expenditure in respect of which a person is entitled to relief under this section shall not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts.

(12) For the purposes of this section, expenditure shall not be regarded as incurred by a person in so far as it has been or is to be met, directly or indirectly, by the State, by any board established by statute or by any public or local authority.

(13) Section 555 shall apply as if a deduction under this section were a capital allowance and as if any rent deemed to have been received by a person under this section were a balancing charge.

(14) This section shall not apply in the case of any conversion or refurbishment unless planning permission, in so far as it is required, in respect of the conversion or, as the case may be, the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1999, or the Planning and Development Act, 2000.

(15) Section 372AS shall apply for the purposes of supplementing this section.

Qualifying expenditure: owner-occupiers.

372AQ.—(1) For the purposes of this Chapter, but subject to subsection (3), 'qualifying expenditure' means expenditure incurred by an individual on—

(*a*) the construction of, conversion into, or, as the case may be, refurbishment of a qualifying premises, and

(*b*) in the case of a qualifying premises the site of which is wholly within a qualifying town area, the refurbishment of a facade,

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where the qualifying premises is a qualifying owner-occupied dwelling in relation to the individual, after deducting from that amount of expenditure any sum in respect of or by reference to—

(i) that expenditure,

(ii) the qualifying premises, or

(iii) the construction, conversion or, as the case may be, refurbishment work in respect of which that expenditure was incurred,

which the individual has received or is entitled to receive, directly or indirectly, from the State, any board established by statute or any public or local authority.

(2) For the purposes of this section, 'qualifying owner-occupied dwelling', in relation to an individual, means a qualifying premises which is first used, after the qualifying expenditure has been incurred, by the individual as his or her only or main residence.

(3) Subsection (1) applies—

(*a*) in the case of a qualifying premises which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, as if the reference in that subsection to 'construction' were a reference to 'necessary construction', and

(*b*) in the case of a qualifying premises the site of which is wholly within the site of a qualifying park and ride facility, as if the reference in that subsection to 'construction of, conversion into, or, as the case may be, refurbishment of' were a reference to 'construction of'.

(4) Subsection (7) of section 372AN, which relates to the construing of references in that section to the construction of, conversion into, or, as the case may be, refurbishment of, any premises, shall apply with any necessary modifications in construing references in this section to the construction of, conversion into, or, as the case may be, refurbishment of any premises.

Relief for owner-occupiers.

372AR.—(1) Subject to this section, where an individual, having duly made a claim, proves to have incurred qualifying expenditure in a year of assessment, the individual is entitled, for that year of assessment and for any of the 9 subsequent years of assessment in which the qualifying premises in respect of which the individual incurred the qualifying expenditure is the only or main residence of the individual, to have a deduction made from his or her total income of an amount equal to—

(*a*) 5 per cent of the amount of that expenditure, where the qualifying expenditure has been incurred on the construction of the qualifying premises,

(*b*) 10 per cent of the amount of that expenditure, where the qualifying expenditure has been incurred on the necessary construction of a qualifying premises which fronts on to a qualifying street or is comprised in a building or part of a building which fronts on to a qualifying street, or

(*c*) 10 per cent of the amount of that expenditure, where the qualifying expenditure has been incurred on the conversion into or the refurbishment of the qualifying premises.

(2) Where the year of assessment first mentioned in subsection (1) or any of the 9 subsequent years of assessment is the year of assessment 2001, that subsection applies—

(*a*) as if for 'any of the 9 subsequent years of assessment' there were substituted 'any of the 10 subsequent years of assessment',

(*b*) as respects the year of assessment 2001, as if '3.7 per cent' and '7.4 per cent' were substituted for '5 per cent' and '10 per cent', respectively, and

(*c*) as respects the year of assessment which is the 10th year of assessment subsequent to the year of assessment first mentioned in that subsection, as if '1.3 per cent' and '2.6 per cent' were substituted for '5 per cent' and '10 per cent', respectively.

(3) Notwithstanding subsection (1), where the individual or, being a husband or wife, the individual's spouse, is assessed to tax in accordance with section 1017, then, except where section 1023 applies, the individual shall be entitled to have the deduction, to which he or she is entitled under that subsection, made from his or her total income and the total income of his or her spouse, if any.

(4) A deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure is to be treated under section 372AS(1) as having been incurred in the qualifying period.

(5) (*a*) A person is entitled to a deduction by virtue of subsection (1) in respect of qualifying expenditure incurred at a park and ride facility only in so far as that expenditure when aggregated with—

(i) other qualifying expenditure, if any, incurred at that park and ride facility

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in respect of which a deduction is to be made or would, but for this subsection, be made, and

(ii) other expenditure, if any, incurred at that park and ride facility in respect of which there is provision for a deduction under section 372AP,

does not exceed 25 per cent of the total expenditure incurred at that park and ride facility in respect of which an allowance or deduction is to be made or would, but for this subsection or section 372W(2)(*c*) or 372AP(5), be made by virtue of any provision of this Chapter or Chapter 9.

(*b*) A person who has incurred qualifying expenditure at a park and ride facility and who claims to have complied with the requirements of paragraph (*a*) in relation to that expenditure, shall be deemed not to have so complied unless the person has received from the relevant local authority a certificate in writing issued by that authority stating that it is satisfied that those requirements have been met.

(6) Where qualifying expenditure in relation to a qualifying premises is incurred by 2 or more persons, each of those persons shall be treated as having incurred the expenditure in the proportions in which they actually bore the expenditure, and the expenditure shall be apportioned accordingly.

(7) Subsections (6), (9) and (10) of section 372AP, in relation to—

(*a*) the apportionment of eligible expenditure incurred on or in relation to a qualifying premises and of the relevant cost in relation to that premises, and

(*b*) the amount of eligible expenditure to be treated as incurred in the qualifying period,

apply, with any necessary modifications, for the purposes of this section, in determining—

(i) the amount of qualifying expenditure incurred on or in relation to a qualifying premises, and

(ii) the amount of qualifying expenditure to be treated as incurred in the qualifying period,

as they apply for the purposes of section 372AP.

(8) Expenditure in respect of which an individual is entitled to relief under this section shall not include

any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts. SCH.2

(9) This section shall not apply in the case of any conversion or refurbishment unless planning permission, in so far as it is required, in respect of the conversion or, as the case may be, the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1999 or the Planning and Development Act, 2000.

(10) Section 372AS applies for the purposes of supplementing this section.

Determination of expenditure incurred in qualifying period, and date expenditure treated as incurred for relief purposes.

372AS.—(1) For the purposes of determining whether and to what extent—

(*a*) in relation to any claim under section 372AP(2), eligible expenditure incurred on or in relation to a qualifying premises or a special qualifying premises, and

(*b*) in relation to any claim under section 372AR(1), qualifying expenditure incurred on or in relation to a qualifying premises,

is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on—

(i) in the case of a claim under section 372AP(2), the construction of, conversion into, or refurbishment of, the qualifying premises or, as the case may be, the refurbishment of the special qualifying premises, and

(ii) in the case of a claim under section 372AR(1), the construction of, conversion into, or refurbishment of the qualifying premises,

actually carried out during the qualifying period shall be treated as having been incurred during that period.

(2) Where, by virtue of section 372AN(7) or 372AQ(4), expenditure on the construction of, conversion into, or, as the case may be, refurbishment of, a qualifying premises includes expenditure on the development of any land, subsection (1) applies with any necessary modifications as if the references in that subsection to the construction of, conversion into, or, as the case may be, refurbishment of, the qualifying premises were references to the development of such land.

(3) (*a*) For the purposes of section 372AP other than those to which subsection (1) relates, expenditure incurred on the construction

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of, or, as the case may be, conversion into, a qualifying premises shall be deemed to have been incurred on the date of the first letting of the premises under a qualifying lease.

(*b*) For the purposes of section 372AP other than those to which subsection (1) relates, refurbishment expenditure incurred in relation to the refurbishment of a qualifying premises or a special qualifying premises shall be deemed to have been incurred on the date of the commencement of the relevant period, in relation to the premises, determined as respects the refurbishment to which the refurbishment expenditure relates.

(*c*) For the purposes of section 372AR other than those to which subsection (1) relates, expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred on which the premises is in use as a dwelling.

Appeals.

372AT.—An appeal to the Appeal Commissioners lies on any question arising under this Chapter (other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979) in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals apply accordingly.

Saver for relief due, and for clawback of relief given under, old schemes.

372AU.—(1) Where, but for the repeal by *section 24(3)* of the *Finance Act, 2002*, of the provision concerned, a person would, in computing the amount of a surplus or deficiency in respect of rent from any premises—

(*a*) be entitled to a deduction, or

(*b*) be deemed to have received an amount as rent,

under—

(i) section 325, 326 or 327,

(ii) section 334, 335 or 336,

(iii) section 346, 347 or 348,

(iv) section 356, 357 or 358, or

(v) section 361, 362, or 363,

then, notwithstanding that repeal, the person is entitled to that deduction or is deemed to have received that amount as rent, as the case may be,

under this Chapter, and accordingly this Chapter applies with any modifications necessary to give effect to this subsection.

(2) Where, but for the repeal by *section 24(3)* of the *Finance Act, 2002*, of the provision concerned, a person would, in the computation of his or her total income for any year of assessment, be entitled to a deduction under—

(*a*) section 328,

(*b*) section 337,

(*c*) section 349, or

(*d*) section 364,

then, notwithstanding that repeal, the person is entitled to that deduction for that year of assessment under this Chapter, and accordingly this Chapter applies with any modifications necessary to give effect to this subsection.

Continuity.

372AV.—(1) In this section, the 'old enactments' means sections 372F, 372G, 372H, 372I, 372J, 372P, 372Q, 372R, 372RA, 372S, 372X, 372Y, 372Z, 372AE, 372AF, 372AG, 372AH and 372AI, and Parts 11A and 11B, being enactments repealed under *section 24(3)* of the *Finance Act, 2002*.

(2) The continuity of the operation of the law relating to income tax, corporation tax and capital gains tax is not affected by the substitution of this Chapter for the old enactments.

(3) Any reference, whether express or implied, in any enactment or document, including this Chapter—

(*a*) to any provision of this Chapter, or

(*b*) to things done or to be done under or for the purposes of any provision of this Chapter,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the old enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision.

(4) Any reference, whether express or implied, in any enactment or document, including the old enactments—

(*a*) to any provision of the old enactments, or

(*b*) to things done or to be done under or for the purposes of any provision of the old enactments,

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shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Chapter applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

(5) If and in so far as a provision of this Chapter operates, as on and from the date of the passing of the *Finance Act, 2002*, in substitution for a provision of the old enactments, anything done or having effect as if done under the provision of the old enactments before that date shall be treated on and from that date as if it were a thing done under the provision of this Chapter which so operates.

(6) Without prejudice to the generality of subsections (2) to (5), this Chapter applies as if a deduction given to a person under the old enactments were a deduction given to such person under this Chapter in respect of, as may be appropriate—

(*a*) eligible expenditure incurred in the qualifying period, on or in relation to a qualifying premises or a special qualifying premises, as the case may be, or

(*b*) qualifying expenditure incurred in the qualifying period on or in relation to a qualifying premises.

(7) Without prejudice to the generality of subsections (2) to (5), any reference in an order made under section 372B(1) or 372BA(1) to section 372F, 372G, 372H or 372I shall, as on and from the date of the passing of the *Finance Act, 2002*, be construed respectively as if it were a reference to—

(*a*) section 372AP, in so far as it relates to expenditure on construction,

(*b*) section 372AP, in so far as it relates to conversion expenditure,

(*c*) section 372AP, in so far as it relates to refurbishment expenditure, and

(*d*) section 372AR.

(8) Without prejudice to the generality of subsections (2) to (5), any reference in an order made under section 372AB(1) to section 372AE, 372AF, 372AG or 372AH shall, as on and from the date of the passing of the *Finance Act, 2002*, be construed respectively as if it were a reference to—

(*a*) section 372AP, in so far as it relates to expenditure on construction,

(*b*) section 372AP, in so far as it relates to conversion expenditure,

(*c*) section 372AP, in so far as it relates to refurbishment expenditure, and SCH.2

(*d*) section 372AR.

(9) All officers who immediately before the date of the passing of the *Finance Act, 2002*, stood authorised or nominated for the purposes of any provision of the old enactments shall be deemed to be authorised or nominated, as the case may be, for the purposes of the corresponding provision of this Chapter.

(10) All instruments, documents, authorisations and letters or notices of appointment made or issued under the old enactments and in force immediately before the date of the passing of the *Finance Act, 2002*, shall continue in force as if made or issued under this Chapter.''.

2. The Taxes Consolidation Act, 1997, is further amended—

(*a*) in section 372A—

(i) in subsection (1)—

(I) in paragraph (*a*) of the definition of ''necessary construction'', by substituting ''Chapter 11 of this Part'' for ''section 372F or 372I'', and

(II) in the definition of ''refurbishment'', by deleting ''and other than for the purposes of sections 372H and 372I'',

and

(ii) in subsection (2), by substituting ''This Chapter and Chapter 11 of this Part'' for ''This Chapter'',

(*b*) in section 372B—

(i) in subsection (1)—

(I) in paragraph (*a*), by substituting ''this Chapter or Chapter 11 of this Part'' for ''this Chapter'', and

(II) by inserting the following after paragraph (*b*):

''(*ba*) where such an area or areas is or are to be a qualifying area for the purposes of section 372AP, that section shall apply in relation to that area or those areas in so far as that section relates to one or more of the following:

(i) expenditure incurred on the construction of a house,

(ii) conversion expenditure incurred in relation to a house, and

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(iii) refurbishment expenditure incurred in relation to a house,'',

and

(ii) in subsection (4), by substituting ''this Chapter or Chapter 11 of this Part'' for ''this Chapter'',

(*c*) in section 372BA—

(i) in subsection (1)—

(I) in paragraph (*a*), by substituting ''this Chapter or Chapter 11 of this Part'' for ''this Chapter'',

(II) by inserting the following after paragraph (*b*):

''(*ba*) where such an area or areas is or are to be a qualifying area for the purposes of section 372AP, that section shall apply in relation to that area or those areas in so far as that section relates to one or more of the following:

(i) expenditure incurred on the construction of a house,

(ii) conversion expenditure incurred in relation to a house, and

(iii) refurbishment expenditure incurred in relation to a house,'',

and

(III) in paragraph (*c*), by inserting ''and section 372AL'' after ''section 372A'',

and

(ii) in subsection (4), by inserting ''under this Chapter or Chapter 11 of this Part'' after ''may be granted'',

(*d*) in section 372L—

(i) in the definition of ''qualifying period'', by deleting paragraphs (*b*) and (*c*), and

(ii) in the definition of ''refurbishment'', by deleting ''and other than for the purposes of sections 372R and 372RA'',

(*e*) in section 372U(1)—

(i) in paragraph (*b*) of the definition of ''park and ride facility'', by substituting ''section 372W or 372AK'' for ''section 372W, 372X or 372Y'', and

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(ii) in the definition of ''the relevant local authority'', by deleting ''or the construction of a qualifying premises within the respective meanings assigned in sections 372X and 372Y'',

(*f*) in section 372W(2)(*c*)(i), by substituting ''section 372AP or 372AR'' and ''section 372AP(5) or 372AR(5)'' for ''section 372X or 372Y'' and ''section 372X(4) or 372Y(2)(*c*)'', respectively,

(*g*) in section 372AA—

(i) in subsection (1)—

(I) by substituting the following for the definition of ''qualifying period'':

'' 'qualifying period' means, subject to section 372AB, the period commencing on such day as the Minister for Finance may by order appoint and ending on 31 December 2003;'',

and

(II) in the definition of ''refurbishment'', by deleting ''and other than for the purposes of sections 372AG and 372AH'',

and

(ii) in subsection (2), by substituting ''This Chapter and Chapter 11 of this Part'' for ''This Chapter'',

(*h*) in section 372AB—

(i) in subsection (1)—

(I) in paragraph (*a*), by substituting ''this Chapter or Chapter 11 of this Part'' for ''this Chapter'',

(II) in paragraph (*b*), by substituting ''section 372AR'' for ''section 372AH'',

(III) by inserting the following after paragraph (*b*):

''(*ba*) where such an area or areas is or are to be a qualifying area for the purposes of section 372AP, that section shall apply in relation to that area or those areas in so far as that section relates to one or more of the following:

(i) expenditure incurred on the construction of a house,

(ii) conversion expenditure incurred in relation to a house, and

(iii) refurbishment expenditure incurred in relation to a house,'',

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and

(IV) in paragraph (*c*)—

(A) by inserting ''and section 372AL'' after ''section 372AA'', and

(B) in subparagraph (ii), by substituting ''any provision of Chapter 11 of this Part'' for ''sections 372AE, 372AF, 372AG, 372AH and 372AI'',

and

(ii) in subsection (4), by substituting ''this Chapter or Chapter 11 of this Part'' for ''this Chapter'',

(*i*) in Part 1 of the Table to section 458, by substituting ''Section 372AR'' for ''Section 328'', ''Section 337'', ''Section 349'', ''Section 364'', ''Section 371'', ''Section 372I'', ''Section 372RA'', ''Section 372Y'' and ''Section 372AH'', and

(*j*) in section 1024(2)(*a*), by substituting the following for subparagraph (i):

''(i) relief under sections 244 and 372AR, in the proportions in which they incurred the expenditure giving rise to the relief;''.

PART 2

Consequential Amendments to Other Enactments

3. The Urban Renewal Act, 1998, is amended—

(*a*) by substituting ''Chapter 7 or 11'' for ''Chapter 7'' in each place where it occurs in sections 8(1)(*a*), 11(1) and 12(1),

(*b*) by substituting the following for paragraph (*b*) of section 8(1):

''(*b*) the whole of such an area ought to be a qualifying area for the purposes of one or more of the following provisions of the said Chapter 11—

(i) section 372AP, in so far as it relates to conversion expenditure (within the meaning of that Chapter) incurred in relation to a house,

(ii) section 372AP, in so far as it relates to refurbishment expenditure (within the meaning of that Chapter) incurred in relation to a house, and

(iii) section 372AR.'',

and

(*c*) by substituting in section 9 ''paragraph (*a*), (*b*), (*ba*) or (*c*)'' for ''paragraph (*a*), (*b*) or (*c*)''.

4. The Town Renewal Act, 2000, is amended— SCH.2

(*a*) by inserting ''or Chapter 11 (inserted by the *Finance Act, 2002*)'' after ''Chapter 10 (inserted by the Finance Act, 2000)'' in each place where it occurs in sections 3(4)(*c*), 5(1)(*a*), 7(1) and 8(1),

(*b*) by substituting the following for paragraph (*b*) of section 5(1):

''(*b*) the whole of the area to which the town renewal plan relates ought to be a qualifying area for the purposes of one or more of the following provisions of the said Chapter 11—

(i) section 372AP, in so far as it relates to conversion expenditure (within the meaning of that Chapter) incurred in relation to a house,

(ii) section 372AP, in so far as it relates to refurbishment expenditure (within the meaning of that Chapter) incurred in relation to a house, and

(iii) section 372AR in so far as it relates to expenditure incurred on the refurbishment of a house.'',

and

(*c*) by substituting in section 6 ''paragraph (*a*), (*b*), (*ba*) or (*c*)'' for ''paragraph (*a*), (*b*) or (*c*)''.

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SCHEDULE 3

Repeals relating to Betting Duties

Repeals

Number and Year (1)	Short title (2)	Extent of repeal (3)
No. 35 of 1926.	Finance Act, 1926.	Sections 24, 25 and 26.
No. 32 of 1929.	Finance Act, 1929.	Sections 30 and 32.
No. 31 of 1931.	Finance Act, 1931.	Sections 17, 18 and 20.
No. 14 of 1940.	Finance Act, 1940.	Section 16.
No. 9 of 1984.	Finance Act, 1984.	Section 76.
No. 10 of 1985.	Finance Act, 1985.	Section 31.
No. 13 of 1986.	Finance Act, 1986.	Section 71.
No. 10 of 1989.	Finance Act, 1989.	Section 42.
No. 13 of 1994.	Finance Act, 1994.	Section 89.
No. 8 of 1995.	Finance Act, 1995.	Section 113.
No. 9 of 1996.	Finance Act, 1996.	Section 75.
No. 3 of 1998.	Finance Act, 1998.	Section 86.
No. 2 of 1999.	Finance Act, 1999.	Section 117.

SCHEDULE 4

RATES OF EXCISE DUTY ON TOBACCO PRODUCTS

PART 1

Section 88(2)(a).

With effect as on and from 6 December 2001

Description of Product	Rate of Duty
Cigarettes … … … …	£85.21 per thousand together with an amount equal to 18.73 per cent of the price at which the cigarettes are sold by retail
Cigars … … … … …	£129.242 per kilogram
Fine-cut tobacco for the rolling of cigarettes … … … …	£109.061 per kilogram
Other smoking tobacco … …	£89.663 per kilogram

PART 2

Section 88(2)(b).

With effect as on and from 1 January 2002

Description of Product	Rate of Duty
Cigarettes … … … …	€108.19 per thousand together with an amount equal to 18.73 per cent of the price at which the cigarettes are sold by retail
Cigars … … … … …	€164.103 per kilogram
Fine-cut tobacco for the rolling of cigarettes … … … …	€138.478 per kilogram
Other smoking tobacco … …	€113.848 per kilogram

SCHEDULE 5

RATES OF EXCISE DUTY ON CIDER AND PERRY

Section 90(2)(a).

PART 1

With effect as on and from 6 December 2001

Description of Cider and Perry	Rate of Duty
	£
Still and Sparkling:	
Of an alcoholic strength not exceeding 6% vol	65.57 per hectolitre
Of an alcoholic strength exceeding 6% vol but not exceeding 8.5% vol … … … …	151.59 per hectolitre
Still:	
Of an alcoholic strength exceeding 8.5% vol but not exceeding 15% vol … … … …	215.01 per hectolitre
Of an alcoholic strength exceeding 15% vol	311.97 per hectolitre
Sparkling:	
Of an alcoholic strength exceeding 8.5% vol	430.02 per hectolitre

Section 90(2)(b).

PART 2

With effect as on and from 1 January 2002

Description of Cider and Perry	Rate of Duty
	€
Still and Sparkling:	
Of an alcoholic strength not exceeding 6% vol	83.25 per hectolitre
Of an alcoholic strength exceeding 6% vol but not exceeding 8.5% vol … … … …	192.47 per hectolitre
Still:	
Of an alcoholic strength exceeding 8.5% vol but not exceeding 15% vol … … … …	273.00 per hectolitre
Of an alcoholic strength exceeding 15% vol	396.12 per hectolitre
Sparkling:	
Of an alcoholic strength exceeding 8.5% vol	546.01 per hectolitre

SCHEDULE 6

Section 138.

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Value-Added Tax Act, 1972, is amended in accordance with the following provisions:

(*a*) section 11(3) is amended by substituting ''40 cent'' for ''40 cents'' (inserted by the Finance Act, 2001),

(*b*) section 12 is amended in subsection (1)(*b*)(ii) (inserted by the Finance Act, 1987) by deleting ''(*b*), (*c*) or'',

(*c*) section 12C (inserted by the Finance Act, 1999) is amended in subsections (1A), (1B) and (1B)(*f*) (inserted by the Finance Act, 2000) by substituting ''3(5)(*c*) or (*d*)'' for ''3(5)(*c*)'',

(*d*) section 19 is amended in subsection (3)(*aa*)(vii) by substituting ''fourteen'' for ''twenty-one'', and

(*e*) the First Schedule is amended by substituting the following for paragraph (i)(*g*)(I):

''(i) (*g*) (I) a collective investment undertaking as defined in section 172A of the Taxes Consolidation Act, 1997 (as amended by section 59 of the Finance Act, 2000), or''.

2. The Capital Acquisitions Tax Act, 1976, is amended in accordance with the following provisions:

(*a*) in section 6(2), by substituting ''subsection (1)(*d*)'' for ''subsection (1)(*c*)'', and

(*b*) in section 31(6), by substituting ''sections 6(1)(*d*) and 12(1)(*c*)'' for ''sections 6(1)(*c*) and 12(1)(*b*)''.

3. The Taxes Consolidation Act, 1997, is amended in accordance with the following provisions:

(*a*) in section 116(3)(*b*), by substituting ''€1,905'' for ''£1,500'',

(*b*) in section 121(6)(*c*), by substituting ''Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*c*) in section 126(7)(*a*), by substituting ''Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*d*) in section 187(2)(*b*), by substituting ''subsections (1)(*b*), (2) and (3) of that section.'' for ''subsections (1)(*b*), (2), (3) and (5) of that section.'',

(*e*) in section 244(1), by substituting the following definition for the definition of ''dependent relative'':

''dependent relative'' in relation to an individual, means any of the persons mentioned in paragraph (*a*) or (*b*) of

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subsection (2) of section 466 in respect of whom the individual is entitled to a tax credit under that section.'',

(*f*) in section 372D(3A)(*a*), by substituting ''qualifying street'' for ''designated street'',

(*g*) in section 434(5) (as amended by the Finance Act, 2000)—

(i) in paragraph (*a*) by substituting the following for subparagraph (ii):

''(ii) an amount equal to the aggregate of the amounts of estate income and investment income taken into account in computing the income of the company for the accounting period,'',

and

(ii) in paragraph (*b*) by substituting the following for subparagraph (i):

''(i) an amount equal to the sum of the amounts specified in subparagraphs (i) and (ii) of paragraph (*a*),'',

(*h*) in section 470A(7)(*a*)(i)(II), by substituting ''earlier'' for ''later'',

(*i*) in section 472(2)(*a*)(ii), by substituting ''Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*j*) in section 472A(1)(*a*), in the definition of ''qualifying child'' by substituting ''subsections (4) and (5)'' for ''subsections (4) and (6)'',

(*k*) in section 481(6), by substituting ''€250'' for ''£200'',

(*l*) in section 784A(4)(*c*)(ii)(II), by substituting ''Regulation 22(2)(*b*)(ii) of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Regulation 25(2)(*b*) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*m*) in section 826(1), by substituting ''this section and section 835, the arrangements shall, notwithstanding any enactment'' for ''this section and sections 168 and 835, the arrangements shall, notwithstanding any enactment other than section 168'',

(*n*) in section 903(1), in the definition of ''records'' by substituting ''Regulation 20 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''regulation 22 of the Income Tax (Employment) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*o*) in section 959(2), by substituting ''that assessment or amended assessment'' for ''and that assessment or amended assessment'',

(*p*) in section 987—

(i) in subsections (1) and (1A), by substituting ''Regulation 31 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Regulation 35 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'' in both places where it occurs, and

(ii) in subsection (4)(*c*), by substituting ''Regulation 7(4) of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''regulation 8(4) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*q*) in section 988—

(i) in subsection (1), by substituting ''Regulation 7 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''regulation 8 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'', and

(ii) in subsection 3(*a*), by substituting ''Regulation 28'' for ''regulation 31'',

(*r*) in section 990—

(i) in subsection (1A)(*a*)(ii), by substituting ''Regulation 31 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Regulation 35 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'', and

(ii) in subsection (2), by substituting ''Regulation 31 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Regulation 35 of the Income Tax (Employment) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*s*) in section 991A(*a*), by substituting ''Regulation 29 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''Regulation 31A (inserted by the Income Tax (Employments) Regulations, 1989 (S.I. No. 58 of 1989)) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'',

(*t*) in section 995(*a*)(i), by substituting—

(i) ''Regulation 29 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)'' for ''regulation 31A of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)'', and

(ii) ''Regulation 29 of those Regulations'' for ''regulation 31A of those Regulations'',

(*u*) in section 1022(9) by substituting ''performed or discharged'' for ''performed or authorised'',

(*v*) in section 1024(2)(*a*)—

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(i) in subparagraph (ii), by substituting ''subsection (3)'' for ''subsection (4)'',

(ii) in subparagraph (iii), by substituting ''section 465(3)'' for ''section 465(4)'',

(iii) in subparagraph (ix), by substituting ''473A'' for ''474, 474A, 475, 475A'', and

(iv) by substituting the following for subparagraph (xa):

''(xa) relief under section 848A(7), to the husband and wife according as he or she made the relevant donation giving rise to the relief;'',

(*w*) in section 1025(4)(*d*), by substituting ''section 465(5)'' for ''section 465(7)'',

(*x*) in Schedule 26A, in paragraph 3(*c*) of Part 3, by substituting ''paragraph 2'' for ''subsection (2)''.

4. The Stamp Duties Consolidation Act, 1999, is amended in section 79(3) by substituting the following for paragraphs (*a*), (*b*) and (*c*):

''(*a*) references to company were references to body corporate,

(*b*) references to companies were references to bodies corporate, and

(*c*) references to ordinary share capital were references to issued share capital.''.

5. The Finance Act, 2001, is amended in accordance with the following provisions:

(*a*) in section 55(*b*), by substituting '' 'Subsections (2) and (4)' of 'Subsections (2) to (4)' '' for '' 'Subsections 2 and 4' of 'Subsections 2 to 4' '',

(*b*) in section 70(2) by substituting ''Subsection (1) shall'' for ''This section shall'',

(*c*) in section 71(2) by substituting ''Subsection (1) shall'' for ''This section shall'',

(*d*) in section 74(2) by substituting ''Subsection (1) shall'' for ''This section shall'',

(*e*) in section 119(3), by substituting ''section'' for ''subsection'',

(*f*) in section 232 by substituting the following for subsection (2):

''(2) (*a*) In paragraph (*b*) chargeable period has the same meaning as in section 321(2) of the Principal Act.

(*b*) Paragraphs (*b*), (*c*) and (*d*) of subsection (1) shall apply as respects any chargeable period commencing on or after 15 February 2001.

(*c*) Paragraphs (*a*) and (*e*) of subsection (1) shall apply as on and from 15 February 2001.'', SCH.6

(*g*) in section 240(2)(*l*)(vi), by substituting ''section 494(2)'' for ''section 494(1)'',

(*h*) in Schedule 1—

(i) in paragraph 1(*p*), by substituting ''paragraph (*b*)'' for ''paragraph (*a*)'', and

(ii) in paragraph 2(*g*), by substituting ''subsection (1)'' for ''subsection (2)'',

and

(*i*) in Schedule 5, in Part 3, under ''Finance Act, 1992 (No. 9 of 1992) (as amended):'', by substituting ''section 99(1)'' for ''section 99(3)''.

6. (*a*) As respects *paragraph 1*—

(i) *subparagraph (a)* shall be deemed to have come into force and take effect as on and from 1 January 2002, and

(ii) *subparagraphs (b)*, *(c)*, *(d)* and *(e)* shall have effect as on and from the passing of this Act.

(*b*) As respects *paragraph 2*—

(i) *subparagraph (a)* shall have effect in relation to gifts taken on or after 1 December 1999, and

(ii) *subparagraph (b)* shall have effect in relation to gifts or inheritances taken on or after 1 December 1999.

(*c*) As respects *paragraph 3*—

(i) *subparagraphs (a)*, *(b)*, *(c)*, *(i)*, *(k)*, *(l)*, *(n)*, *(p)*, *(q)*, *(r)*, *(s)* and *(t)* shall be deemed to have come into force and take effect as on and from 1 January 2002,

(ii) *subparagraphs (d)*, (*e*), *(f)*, *(h)*, *(j)*, *(v)*, *(w)* and *(x)* shall be deemed to have come into force and take effect as on and from 6 April 2001,

(iii) *subparagraph (g)* applies as respects the accounting period ending on or after 14 March 2001,

(iv) *subparagraph (o)* applies as respects the year of assessment 2002 and subsequent years of assessment and as respects accounting periods of companies ending on or after 1 January 2001, and

(v) *subparagraphs (m)* and *(u)* shall have effect as on and from the passing of this Act.

(*d*) *Paragraph 4* shall have effect in relation to instruments executed on or after 15 December 1999.

(*e*) As respects *paragraph 5*—

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(i) *subparagraphs (a)*, *(b)*, *(c)*, *(d)*, *(f)*, *(g)* and *(h)* shall be deemed to have come into force and take effect as on and from 30 March 2001,

(ii) *subparagraph (e)* shall have effect as on and from the passing of this Act, and

(iii) *subparagraph (i)* shall be deemed to have come into force and take effect as on and from 1 January 2002.