Number 9 *of* 1996

FINANCE ACT, 1996

AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE), TO AMEND THE LAW RELATING TO CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE) AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. [15*th May*, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Income Tax, Corporation Tax and Capital Gains Tax

Chapter I

Income Tax

Amendment of provisions relating to exemption from income tax.

1.—As respects the year of assessment 1996-97 and subsequent years of assessment, the Finance Act, 1980, is hereby amended—

(*a*) in section 1, by the substitution, in subsection (2) (inserted by the Finance Act, 1989), of "£7,800" and "£3,900", respectively, for "£7,400" and "£3,700" (inserted by the Finance Act, 1995), and

(*b*) in section 2, by the substitution, in subsection (6) (inserted by the Finance Act, 1989)—

(i) of "£9,000" and "£10,200", respectively, for "£8,600" and "£9,800" (inserted by the Finance Act, 1995), in paragraph (*a*), and

(ii) of "£4,500" and "£5,100", respectively, for "£4,300" and "£4,900" (inserted by the Finance Act, 1995), in paragraph (*b*),

and the said subsection (2) of the said section 1 and the said subsection (6) of the said section 2, as so amended, are set out in the Table to this section.

TABLE

(2) In this section "the specified amount" means, subject to subsection (3)—

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(*a*) in a case where the individual would, apart from this section, be entitled to a deduction specified in section 138 (*a*) of the Income Tax Act, 1967, £7,800, and

(*b*) in any other case, £3,900.

(6) In this section "the specified amount" means, subject to subsection (3) of section 1—

(*a*) in a case where the individual would, apart from this section, be entitled to a deduction specified in section 138 (*a*) of the Income Tax Act, 1967, £9,000:

Provided that, if at any time during the year of assessment either the individual or his spouse was of the age of seventy-five years or upwards, "the specified amount" means £10,200, and

(*b*) in any other case, £4,500:

Provided that, if at any time during the year of assessment the individual was of the age of seventy-five years or upwards, "the specified amount" means £5,100.

Alteration of rates of income tax.

2.—Section 2 of the Finance Act, 1991, is hereby amended, as respects the year of assessment 1996-97 and subsequent years of assessment, by the substitution of the following Table for the Table to that section:

"TABLE

PART I

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £9,400	27 per cent.	the standard rate
The remainder	48 per cent.	the higher rate

PART II

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first £18,800... ...	27 per cent.	the standard rate
The remainder	48 per cent.	the higher rate

".

Personal reliefs.

3.—(1) Where a deduction falls to be made from the total income of an individual for the year of assessment 1996-97 or any subsequent year of assessment in respect of relief to which the individual is entitled under a provision mentioned in *column (1)* of the Table to this subsection and the amount of the deduction would, but for this section, be an amount specified in *column (2)* of the said Table, the amount of the deduction shall, in lieu of being the amount specified in the said *column (2)*, be the amount specified in *column (3)* of the said Table opposite the mention of the amount in the said *column (2)*.

Statutory provision (1)	Amount to be deducted from total income for the year 1995-96 (2)	Amount to be deducted from total income for the year 1996-97 and subsequent years (3)
	£	£
Income Tax Act, 1967:		
section 138		
(married person)	5,000	5,300
(widowed person bereaved in the year of assessment) ...	5,000	5,300
(widowed person)	3,000	3,150
(single person)	2,500	2,650
section 138A (additional allowance for widowed persons and others in respect of children)		
(widowed person)	2,000	2,150
(other person)	2,500	2,650
section 141		
(incapacitated child)	600	700
Finance Act, 1969:		
section 3 (housekeeper taking care of incapacitated person) ...	5,000	7,500
Finance Act, 1971:		
section 11		
(blind person)	600	700
(both spouses blind)	1,400	1,600

(2) Section 3 of the Finance Act, 1985, section 4 of the Finance Act, 1986, section 4 of the Finance Act, 1990, and section 3 of the Finance Act, 1995, shall have effect subject to the provisions of this section.

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

Taxation treatment of unemployment benefit in certain cases.

4.—(1) In this section "short-time employment" has the same meaning as it has for the purposes of the Social Welfare Acts but also includes such an employment as is referred to in section 79 (2) (*b*) of the Social Welfare (Consolidation) Act, 1993.

(2) Notwithstanding the provisions of section 15 (as amended by the Finance Act, 1995) of the Finance Act, 1992, and the Finance Act, 1992 (Commencement of Section 15) (Unemployment Benefit and Pay-Related Benefit) Order, 1994 (S.I. No. 19 of 1994), the said section 15 shall not apply, as respects the year of assessment 1996-97, in relation to unemployment benefit paid or payable to a person employed in short-time employment.

Relief for payments made by certain persons in respect of alarm systems.

5.—(1) In this section—

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

"installation" means the placing in position, including any necessary wiring, drilling, plastering or similar, of a relevant alarm system;

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"qualifying expenditure", in relation to a qualifying individual, means expenditure incurred in the qualifying period in connection with either or both the provision and installation of a relevant alarm system in a premises which is that qualifying individual's sole or main residence, but it does not include any expenditure in so far as it is in respect of the repair, maintenance or monitoring of such an alarm system;

"qualifying individual", in relation to qualifying expenditure, means an individual who, at the time the expenditure is incurred, has attained the age of 65 years and who, for the greater part of the year of assessment in which the expenditure is incurred, lives alone;

"qualifying period" means the period beginning on 23rd day of January, 1996, and ending on the 5th day of April, 1998;

"relative", in relation to a qualifying individual, includes a relation by marriage and a person in respect of whom the individual is or was the legal guardian;

"relevant alarm system" means an electrical apparatus which, when activated, is designed to give notice to the effect that there is an intruder present or attempting to enter the premises in which it is installed.

(2) Where a claimant, being a qualifying individual or a relative of that individual, having made a claim in that behalf, proves that he or she has incurred qualifying expenditure in relation to the qualifying individual, the income tax to be charged on the claimant, other than in accordance with section 5 (3) of the Finance Act, 1974, for the year of assessment in which the expenditure is incurred shall be reduced by an amount which is the lesser of—

(*a*) the appropriate percentage of the qualifying expenditure or the appropriate percentage of £800, whichever is the lesser, and

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

(3) Any claim for relief under this section shall be in such form as may be prescribed by the Revenue Commissioners for the purpose and shall be accompanied by a receipt or receipts, as may be appropriate, for the amount of qualifying expenditure incurred:

Provided that where the qualifying expenditure includes expenditure in respect of installation, the receipt in respect of such expenditure shall contain the installer's name, address and the installer's value-added tax registration number or income tax reference number.

(4) Any deduction made under this section shall be in substitution for, and not in addition to, any deduction to which the individual might be entitled in respect of the same payment under any other provision of the Income Tax Acts.

Amendment of section 4 (benefit of use of a car) of Finance Act, 1982.

6.—As respects the year of assessment 1996-97 and subsequent years of assessment, section 4 of the Finance Act, 1982, is hereby amended—

(*a*) by the insertion of the following subsection after subsection (4):

"(4A) (*a*) Where, for a year of assessment— Pt.I S.6

(i) a person, in the performance of the duties of his employment, spends 70 per cent. or more of his time engaged on such duties away from the place of business of his employer, and

(ii) in relation to that person, the business mileage exceeds 5,000,

then, if the person so elects in writing to the inspector, the cash equivalent of the benefit of the car for that year in relation to the person shall, instead of being the amount ascertained under subsection (3) or (4), as may otherwise be appropriate, be four-fifths of the amount ascertained under subsection (3).

(*b*) When requested in writing by the inspector, a person who makes an election under paragraph (*a*) for a year of assessment shall, within 30 days of the date of such request, furnish to the inspector a relevant log book in relation to that year of assessment.

(*c*) This subsection shall not apply as respects a year of assessment where—

(i) when requested to do so, a person fails to deliver to the inspector, within the time specified in paragraph (*b*), a relevant log book in relation to that year, or

(ii) the time spent by a person in the performance of the duties of his employment in that year is, on average, less than 20 hours per week.

(*d*) The provisions of paragraph (*e*) of subsection (6) shall apply for the purposes of this subsection as they apply for the purposes of that subsection.

(*e*) Where a person makes an election under paragraph (*a*) for a year of assessment, he shall retain the relevant log book in relation to that year for a period of 6 years after the end of the year or for such shorter period as the inspector may authorise in writing.",

and

(*b*) in paragraph (*a*) of subsection (9), by the insertion of the following definition after the definition of "private use":

"'relevant log book', in relation to a person and a year of assessment, means a record, maintained on a daily basis, of the person's business use for the year of assessment of a car or cars in respect of which this section has effect in relation to that person for that year of assessment—

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(i) which contains relevant details of distances travelled, nature and location of business transacted and amount of time spent away from the employer's place of business, and

(ii) which is certified by the employer as being, to the best of his knowledge and belief, true and accurate.".

Amendment of section 145 (insurance against expenses of illness) of Income Tax Act, 1967.

7.—(1) Section 145 of the Income Tax Act, 1967, is hereby amended by the substitution of the following subsection for subsection (1):

"(1) In this section 'authorised insurer' means any undertaking entered in the Register of Health Benefits Undertakings established under section 14 of the Health Insurance Act, 1994, lawfully carrying on such business of insurance as is referred to in subsection (2):

Provided that, in relation to an individual, it also means any undertaking authorised pursuant to Council Directive No. 73/239/EEC of 24 July 1973[1], Council Directive No. 88/357/EEC of 22 June 1988[2], and Council Directive No. 92/49/EEC of 18 June 1992[3], where such a contract for insurance as is referred to in subsection (2) was effected with the individual when the individual was not resident in the State but was resident in another Member State of the European Union.".

(2) This section shall apply and have effect, and shall be deemed always to have applied and had effect, as on and from the 1st day of July, 1994.

Amendment of Second Schedule to Finance Act, 1992.

8.—(1) The Second Schedule to the Finance Act, 1992, is hereby amended—

(*a*) by the deletion of paragraphs 35, 36, 46, 54 and 60, and

(*b*) by the addition of the following paragraphs after paragraph 73:

"74. Aer Lingus Group public limited company.

75. An Bord Bia.

76. Area Development Management Limited.

77. The Combat Poverty Agency.

78. The Commissioners of Irish Lights.

79. Dublin Transportation Office.

80. The Heritage Council.

81. The Higher Education Authority.

82. The Independent Radio and Television Commission.

[1] O.J. No. L228 of 16.8.1973, p.3.
[2] O.J. No. L172 of 4.7.1988, p.1.
[3] O.J. No. L228 of 11.8.1992, p.1.

83. The Irish Horseracing Authority.

84. The Labour Relations Commission.

85. The Marine Institute.

86. National Rehabilitation Board.

87. National Safety Council.

88. The Pensions Board.".

(2) *Subsection (1)* shall apply and have effect—

(*a*) in so far as it relates to the deletion of paragraph 54 of the Second Schedule to the Finance Act, 1992, as on and from the 26th day of April, 1996, and

(*b*) in every other case, as on and from the 6th day of June, 1996.

Taxation treatment of Hepatitis C compensation payments.

9.—(1) This section applies to any payment in respect of compensation, whether made before, on or after the passing of this Act—

(*a*) by the Tribunal, or

(*b*) following the institution by, or on behalf of, an individual of a civil action for damages in respect of personal injury,

to a person in respect of a right of action in relation to which the person may make a claim to the Tribunal under Clause 4 of the Scheme.

(2) For all the purposes of the Income Tax Acts, and notwithstanding any provision of those Acts to the contrary—

(*a*) income consisting of payments to which this section applies shall be disregarded, and

(*b*) any payment by the Tribunal to which this section applies shall be treated in all respects as if it were a payment made following the institution, by or on behalf of the person to, or in respect of, whom the payment is made, of a civil action for damages in respect of personal injury.

(3) In this section—

"the Scheme" means the Scheme of Compensation for certain persons who have contracted Hepatitis C from the use of Human Immunoglobulin-Anti-D, whole blood or other blood products which was approved by Dáil Éireann on the 13th day of December, 1995;

"the Tribunal" means the Tribunal established by the Minister for Health on the 15th day of December, 1995, to administer the Scheme pursuant to Clause 22 thereof.

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Amendment of section 10 (exemption of certain income from leasing of farm land) of Finance Act, 1985.

10.—Section 10 of the Finance Act, 1985, is hereby amended, as respects a qualifying lease (within the meaning of that section) or qualifying leases made on or after the 23rd day of January, 1996, by the substitution in paragraph (*a*) of subsection (1) of the following definition for the definition of "the specified amount":

"'the specified amount', in relation to any surplus or surpluses (within the meaning of section 81 (4) of the Income Tax Act, 1967) arising in respect of the rent or the rents from any farm land let under a qualifying lease or qualifying leases, means—

(i) the amount of that surplus or the aggregate amount of those surpluses, or

(ii) £4,000, or

(iii) where the rent or rents were not receivable in respect of a full year's letting or lettings, such amount as bears to £4,000 the same proportion as the amount of the rent or the aggregate amount of the rents bears to the amount of the rent or the aggregate amount of the rents which would be receivable for a full year's letting or lettings,

whichever is the least:

Provided that—

(I) where a qualifying lease is for a definite term of seven years or more, the reference in paragraphs (ii) and (iii) to £4,000 shall have effect as if each were a reference to £6,000;

(II) where the income of a qualifying lessor consists of, or includes, rent or rents from a qualifying lease or qualifying leases made before the 23rd day of January, 1996, and from a qualifying lease or qualifying leases made on or after that date, the specified amount shall not exceed £4,000 or, as may be appropriate, £6,000.".

Amendment of section 62 (trading stock of discontinued trade) of Income Tax Act, 1967.

11.—(1) In this section—

"farming" has the same meaning as in Chapter II of Part I of the Finance Act, 1974;

"specified return date for the chargeable period" has the same meaning as in section 9 of the Finance Act, 1988.

(2) As respects the year of assessment 1995-96 and subsequent years of assessment, section 62 of the Income Tax Act, 1967, is hereby amended by the insertion in subsection (1) of the following proviso after paragraph (*b*):

"Provided that where trading stock of a trade of farming is tranferred by a farmer (in this proviso referred to as 'the transferor') to another farmer (in this proviso referred to as 'the transferee'), the transferor and the transferee may jointly elect—

(i) that the provisions of this paragraph shall not apply or have effect, and PT.I S.11

(ii) that, in computing their respective profits or gains from farming, the transferor and the transferee shall include such stock at the value at which the stock is included in the accounts of the transferor at the date of discontinuance,

and such election shall be made in writing on or before the specified return date for the chargeable period in which the stock is transferred.".

Amendment of section 12 (relief for new shares purchased on issue by employees) of Finance Act, 1986.

12.—As respects the year of assessment 1996-97 and subsequent years of assessment, section 12 of the Finance Act, 1986, is hereby amended—

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

(i) by the substitution of the following definition for the definition of "eligible employee":

"'eligible employee', in relation to a qualifying company, means—

(i) where the company is a trading company, a director or an employee of the company, or

(ii) where the company is a holding company, a director or an employee of the company or of a company which is its 75 per cent. subsidiary;",

and

(ii) by the deletion of the definition of "'full-time director' and 'full-time employee'",

and

(*b*) by the substitution, in the proviso to subsection (2), of "£5,000" for "£3,000" (inserted by the Finance Act, 1993), and the said proviso, as so amended, is set out in the Table to this section.

TABLE

Provided that a deduction shall not be given to the extent to which the amount subscribed by an eligible employee for eligible shares issued to him in all years of assessment exceeds £5,000.

Retirement annuities.

13.—As respects the year of assessment 1996-97 and subsequent years of assessment, the Income Tax Act, 1967, is hereby amended—

(*a*) in section 236, by the substitution of the following subsection for subsection (1A) (inserted by the Finance Act, 1978):

"(1A) Subject to the provisions of this section, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums and whether or not including premiums in

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respect of a contract approved under section 235A) shall not be more than—

(*a*) in the case of an individual who at any time during the year of assessment was of the age of 55 years or upwards, 20 per cent., and

(*b*) in any other case, 15 per cent.,

of the individual's net relevant earnings for that year and the amount to be deducted shall to the greatest extent possible include qualifying premiums in respect of contracts approved under section 235A.",

and

(*b*) by the deletion of Schedule 5.

Amendment of section 2 (exemption of certain earnings of writers, composers and artists) of Finance Act, 1969.

14.—As respects the year of assessment 1996-97 and subsequent years of assessment, section 2 of the Finance Act, 1969, is hereby amended, in paragraph (*a*) of subsection (2), by the substitution of the following subparagraph for subparagraph (i):

"(i) who is—

(I) resident in the State and is not resident elsewhere, or

(II) ordinarily resident and domiciled in the State and is not resident elsewhere, and".

Relief for fees paid for part-time third level education.

15.—(1) In this section—

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

"approved college", in relation to a year of assessment, means—

(*a*) an institution which provides courses to which a scheme approved by the Minister under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies, or

(*b*) a college approved of by the Minister for the purposes of section 6 of the Finance Act, 1995;

"approved course" means a part-time undergraduate course of study in an approved college which—

(*a*) is of at least 2 academic years duration, and

(*b*) in the case of a course provided by a college to which *paragraph (b)* of the definition of approved college relates, the Minister, having regard to a code of standards which, from time to time, may, with the consent of the Minister for Finance, be laid down by the Minister in relation to the quality of education to be offered on such approved course, approves of for the purposes of this section;

"the Minister" means the Minister for Education;

"qualifying fees", in relation to an approved course and an academic year, means the amount of fees chargeable in respect of tuition to be provided in relation to that course in that year and which, in relation to a course to which *paragraph (b)* of the definition of approved course relates, the Minister, with the consent of the Minister for Finance, approves of for the purposes of this section; Pt.I S.15

"qualifying individual" means an individual other than an individual who has been conferred with a certificate, diploma or degree in respect of the completion by him or her of an undergraduate course of study of not less than 2 academic years duration.

(2) (*a*) Subject to the provisions of this section, where, for a year of assessment (being the year 1996-97 or a subsequent year of assessment), a qualifying individual makes a claim in that behalf, makes a return in the prescribed form of his or her total income and proves that he or she has on his or her own behalf made a payment in respect of qualifying fees in respect of an approved course for the academic year in relation to that course commencing in that year of assessment, the income tax to be charged on the qualifying individual for that year of assessment, other than in accordance with section 5(3) of the Finance Act, 1974, shall be reduced by an amount which is the lesser of—

(i) the amount equal to the appropriate percentage of the aggregate of all such payments proved to be so made, and

(ii) the amount which reduces that income tax to nil.

(*b*) In this subsection "appropriate percentage", in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year.

(3) For the purposes of this section a payment in respect of qualifying fees shall be regarded as not having been made in so far as any sum, in respect of or by reference to such fees, has been or is to be received either directly or indirectly by the qualifying individual from any source whatsoever by way of grant, scholarship or otherwise.

(4) (*a*) Where the Minister is satisfied that a college, within the meaning of *paragraph (b)* of the definition of approved college, or an approved course in that college, no longer meets the appropriate code of standards laid down, the Minister may, by notice in writing given to the approved college, withdraw, with effect from the year of assessment immediately following the year of assessment in which the notice is given, the approval of that college or course, as the case may be, for the purposes of this section.

(*b*) Where the Minister withdraws the approval of any college or course for the purposes of this section, notice of its withdrawal shall be published, as soon as may be, in the *Iris Oifigiúil.*

(5) On or before the 1st day of July in each year of assessment, the Minister shall furnish the Revenue Commissioners with full details of all—

(*a*) courses,

(*b*) colleges, and

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(*c*) the amount of qualifying fees, in respect of courses, referred to in *paragraph (a)*, for the academic year commencing in that year of assessment,

which, in accordance with the foregoing provisions of this section, the Minister has approved of for the purposes of this section.

(6) All such provisions of the Income Tax Acts as apply in relation to claims for the deductions specified in sections 138 to 142 of the Income Tax Act, 1967, shall, with any necessary modifications, apply in relation to a claim for a reduction of income tax under this section.

(7) Section 198 (inserted by the Finance Act, 1980) of the Income Tax Act, 1967, is hereby amended, in subsection (1)(*a*), by the insertion of the following subparagraph after subparagraph (xvi) (inserted by the Finance Act, 1994):

"(xvii) so far as it flows from relief under *section 15* of the *Finance Act, 1996*, in the proportions in which they incurred the expenditure giving rise to the relief,".

(8) If any question arises as to whether—

(*a*) a college is an approved college, or

(*b*) a course of study is an approved course,

for the purposes of this section, the Revenue Commissioners may consult with the Minister.

CHAPTER II

Income Tax: Relief for Investment in Corporate Trades

Amendment of section 11 (Interpretation (Chapter III)) of Finance Act, 1984.

16.—Section 11 of the Finance Act, 1984, is hereby amended, in subsection (1), by the substitution of the following definition for the definition of "certifying Minister":

"'certifying Minister' means the Minister for Agriculture, Food and Forestry, the Minister for Arts, Culture and the Gaeltacht or the Minister for the Marine (as may be appropriate);".

Amendment of section 12 (the relief) of Finance Act, 1984.

17.—Section 12 of the Finance Act, 1984, is hereby amended—

(*a*) as respects a subscription for eligible shares issued on or after the 2nd day of June, 1995, by the substitution in paragraph (iii) (inserted by the Finance Act, 1995) of the proviso to paragraph (*c*) of subsection (1), of "subsection (2C)" for "subsection (3C)",

(*b*) by the insertion of the following paragraphs after paragraph (iv) of the proviso to paragraph (*c*) of subsection (1)—

"(v) for the purposes of qualifying trading operations such as are referred to in subparagraph (iii*e*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) of subsection (2) of section 16, the aforementioned evidence shall include the certificate referred to in subsection (2D) (as so inserted) of the said section, and

(vi) for the purposes of qualifying trading operations such as are referred to in subparagraph (ii*b*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) of subsection (2) of section 16 and in respect of which money is raised or intended to be raised under the provisions of this Chapter by virtue of clause (II) of the aforesaid subparagraph (ii*b*), the aforementioned evidence shall include the certificate referred to in subsection (2E) (as so inserted) of the said section.",

(*c*) in subsection (11) (inserted by the Finance Act, 1993)—

(i) by the substitution of "the 5th day of April, 1999" for "the 5th day of April, 1996", and

(ii) by the deletion of the proviso thereto.

Amendment of section 13 (limits on relief) of Finance Act, 1984.

18.—Section 13 of the Finance Act, 1984, is hereby amended by the substitution, in subsections (2A) and (2B), of the following proviso for the provisos (inserted by the Finance Act, 1995) to those subsections:

"Provided that this subsection shall not apply or have effect for any year of assessment subsequent to the year 1998-99.".

Amendment of section 13A (restriction of relief where amounts raised exceed permitted maximum) of Finance Act, 1984.

19.—(1) Section 13A (inserted by the Finance Act, 1989) of the Finance Act, 1984, is hereby amended—

(*a*) in subsection (1)—

(i) as respects eligible shares issued on or after the 23rd day of January, 1996, by the substitution of "the issue of eligible shares on or after the 23rd day of January, 1996 (hereafter in this section referred to as the 'relevant issue')" for "the issue of eligible shares (hereafter in this section referred to as the 'relevant issue') on any day falling on or after the 6th day of May, 1993,", and

(ii) as on and from the passing of the *Finance Act, 1996,* by the addition of the following proviso:

"Provided that, in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (ii*b*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) of subsection (2) of section 16, this section shall apply and have effect, in relation to that company and money raised or intended to be raised by it under the provisions of this Chapter by virtue of clause (II) of the aforesaid subparagraph (ii*b*), as if in the foregoing formula and in the formula in subsection (1A) (as amended by the *Finance Act, 1996*) '£100,000' were substituted for '£1,000,000' in each place where it occurs.",

and

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(*b*) by the substitution of the following subsections for subsections (1A) and (1B) (inserted by the Finance Act, 1991):

"(1A) Where 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 amount so raised over the amount determined by the formula—

£1,000,000 — B

where—

B is an amount equal to so much, as does not exceed £1,000,000, of 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.

(1B) In this section, a company is associated with another company where it could reasonably be considered that—

(*a*) (i) both companies act in pursuit of a common purpose, or

(ii) any person or any group of persons or groups of persons having a reasonable commonality of identity have or had the means or power, either directly or indirectly, to determine the trading operations carried on or to be carried on by both companies, or

(*b*) both companies are under the control of any person or group of persons or groups of persons having a reasonable commonality of identity:

Provided that, for the purposes of this section, a company shall not be considered as associated with another company only by reason of the fact that a subscription for eligible shares in both companies is made by a person or persons having the management of an investment fund designated under section 27 as nominee for any person, group of persons or groups of persons.".

(2) As respects eligible shares issued on or after the 28th day of March, 1996, section 13A (as amended by *subsection (1)*) of the Finance Act, 1984, is hereby further amended by the substitution of the following subsections for subsection (1B) (inserted by the said *subsection (1)*):

"(1B) In this section, a company is associated with another company where—

(*a*) in the case of that company, or a company which is, or was at any time, its qualifying subsidiary, and

(*b*) that other company, or a company which is, or was at any time, its qualifying subsidiary,

it could reasonably be considered that—

(i) both companies act in pursuit of a common purpose, or

(ii) any person or any group of persons or groups of persons having a reasonable commonality of identity have or had the means or power, either directly or indirectly, to determine the trading operations carried on or to be carried on by both companies, or

(iii) both companies are under the control of any person or group of persons or groups of persons having a reasonable commonality of identity:

Provided that, for the purposes of this section, a company shall not be considered as associated with another company only by reason of the fact that a subscription for eligible shares in both companies is made by a person or persons having the management of an investment fund designated under section 27 as nominee for any person, group of persons or groups of persons.

(1C) In this section, 'qualifying subsidiary', in relation to a company, has the same meaning as it has for the purpose of section 15.".

Certification in respect of shares exceeding £250,000.

20.—Chapter III of Part I of the Finance Act, 1984, is hereby amended by the insertion of the following section after section 13A:

"13B.—(1) Subject to the following provisions of this section, where on or after the 23rd day of January, 1996, a company raises any amount through the issue of eligible shares (hereafter in this section referred to as the 'relevant issue') for the purpose of qualifying trading operations other than such operations as are referred to in subparagraph (iii*b*) (inserted by the Finance Act, 1990) of paragraph (*a*) of subsection (2) of section 16, relief shall not be given in respect of the excess of the amount over the amount determined by the formula set out in the Table to this subsection unless the company produces to the Revenue Commissioners a relevant certificate or a combined certificate within the meaning of this section:

Provided that where the said company is associated with one or more other companies within the meaning of section 13A (as amended by the *Finance Act, 1996*), then A in the formula set out in the Table to this subsection shall include the aggregate of the amounts raised through the issue of eligible shares at any time before or on the date of the relevant issue by all the companies so associated (including the said company).

TABLE

£250,000 — A

where A is—

(*a*) £250,000, or

(*b*) an amount equal to the aggregate of all amounts raised by the company through the issue of eligible shares before or on the date of the relevant issue,

whichever is the lesser amount.

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(2) The provisions of subsections (2) and (3) of section 13A shall, with any necessary modifications, apply for the purposes of this section as they apply for the purposes of that section.

(3) (*a*) In this section 'relevant certificate' means a certificate from an authority (within the meaning of this section) given to a company in relation to a relevant issue, certifying, on the basis of a business plan of the company and any other information which the company supplies to the authority or which the authority may reasonably request the company to furnish to it, that, having regard to the amount of money raised or to be raised by the relevant issue, the authority is satisfied that—

(i) the purpose or purposes specified in section 12 (1) (*c*) (i) for which the money raised, or to be raised, is intended to be used has or have the potential to create a reasonable level of additional sustainable employment in the company, or

(ii) the money raised or to be raised is necessary to secure the survival of the company and maintain a reasonable level of sustainable employment.

(*b*) In considering whether to give a relevant certificate to a company, an authority shall have regard only to such guidelines for that purpose as may, from time to time, be agreed—

(i) with the consent of the Minister for Finance, between the certifying agency and the Minister for Arts, Culture and the Gaeltacht or the Minister for Enterprise and Employment or the Minister for the Marine or the Minister for Tourism and Trade (as may be appropriate in the circumstances), or

(ii) between the certifying Minister and the Minister for Finance,

and those guidelines may, without prejudice to the generality of the foregoing, include provision—

(I) for the submission to the authority by the company concerned, in relation to its business plan, of an annual progress report, in a form to be specified by the authority,

(II) to ensure that money raised through a relevant issue is used by a company or its qualifying subsidiary only for one or more of the purposes specified in section 12 (1) (*c*) (i) and for no other purposes,

(III) that the issue of the certificate does not represent any form of approval by the authority of the commercial viability of the qualifying trading operations carried on or to be carried on by the company concerned, and

(IV) for the regarding as null and void, from its date of issue, of a relevant certificate where the company concerned fails to comply with its business plan or any modification thereof which may be agreed between it and the authority. PT.I S.20

(4) In this section 'combined certificate' means a certificate given by an authority to a company which comprises—

(*a*) (i) a certificate referred to in paragraph (ii) (inserted by the Finance Act, 1993) of the proviso to paragraph (*c*) of subsection (1) of section 12, or

(ii) (I) a certificate referred to in paragraph (iii) (as amended by the *Finance Act, 1996*) of the proviso to paragraph (*c*) of subsection (1) of section 12, and

(II) an approval of a development and marketing plan as is mentioned in paragraph (*a*) of subsection (3B) of section 15,

or

(iii) a certificate referred to in paragraph (v) (inserted by the *Finance Act, 1996*) of the proviso to paragraph (*c*) of subsection (1) of section 12, or

(iv) an approval of a development and marketing plan as is mentioned in paragraph (*a*) of subsection (3A) of section 15,

and

(*b*) a relevant certificate.

(5) An authority shall not issue a combined certificate unless and until all necessary conditions for the issue of—

(*a*) in the first instance, as may be appropriate—

(i) the certificate mentioned in subparagraph (i) or (iii), as the case may be, of paragraph (*a*) of subsection (4), or

(ii) the certificate and approval mentioned in subparagraph (ii) of paragraph (*a*) of subsection (4), or

(iii) the approval mentioned in subparagraph (iv) of paragraph (*a*) of subsection (4),

and

(*b*) thereafter, and only thereafter, the relevant certificate,

have been satisfied.

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(6) In this section, 'an authority' means—

(*a*) in respect of such qualifying trading operations mentioned in subparagraph (i) (as amended by the Finance Act, 1990), (ii) (inserted by the Finance Act, 1990), (ii*d*) (inserted by the Finance Act, 1995), or (iii*c*) (inserted by the Finance Act, 1990) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16, Forbairt, the Industrial Development Agency (Ireland), the Shannon Free Airport Development Company Limited or Údarás na Gaeltachta, as may be appropriate:

Provided that for the purposes of such qualifying trading operations as are referred to in the aforesaid subparagraph (i), an authority shall mean Bord Iascaigh Mhara in the case of those qualifying trading operations in respect of which the said Bord administers a scheme of assistance to grant aid,

(*b*) in respect of such qualifying trading operations mentioned in subparagraph (ii*e*) (inserted by the Finance Act, 1995), (iii*a*) (inserted by the Finance Act, 1988), or (iii*d*) (inserted by the Finance Act, 1994) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16, the Minister for Agriculture, Food and Forestry,

(*c*) in respect of such qualifying trading operations mentioned in subparagraph (iii*e*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16, the Minister for Arts, Culture and the Gaeltacht,

(*d*) in respect of such qualifying trading operations mentioned in subparagraph (iv) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16, Bord Fáilte Éireann, and

(*e*) in respect of such qualifying trading operations mentioned in subparagraph (v) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16, An Bord Tráchtála.".

Transitional arrangements in relation to *section 20.*

21.—(1) In this section—

"auditor" means—

(*a*) in relation to a company or its qualifying subsidiary, the person or persons appointed as auditor of the company or its qualifying subsidiary, as appropriate, for all the purposes of the Companies Acts, 1963 to 1990, and

(*b*) in relation to a specified designated fund, the person or persons appointed as auditor of that fund;

"eligible shares" has the meaning assigned to it by section 12 of the Finance Act, 1984;

"specified designated fund" means an investment fund designated under section 27 of the Finance Act, 1984, which closed on or before the 5th day of April, 1995, and where at least two-thirds of the money

raised by the fund was invested in eligible shares before the 23rd day of January, 1996; Pt.I S.21

"prospectus", in relation to a company, means any prospectus, notice, circular or advertisement, offering to the public for subscription or purchase any eligible shares (within the meaning of section 12 (2) of the Finance Act, 1984) of the company, and in this definition "the public" includes any section of the public, whether selected as members of the company or as clients of the person issuing the prospectus or in any other manner;

"qualifying subsidiary", in relation to a company, has the same meaning as it has for the purposes of section 15 of the Finance Act, 1984;

"qualifying trading operations" has the meaning assigned to it by section 16 of the Finance Act, 1984 (as amended by this Act);

"the specified period" means the period beginning on the 1st day of January, 1995, and ending on the 23rd day of January, 1996.

(2) *Section 20* shall not apply as respects eligible shares issued on or after the 23rd day of January, 1996, by a company to which this section applies and in respect of which the conditions in either *subsection (5)* or *(6)* are met.

(3) The provisions of Chapter III of Part I of the Finance Act, 1984, which were in force immediately before the 23rd day of January, 1996, shall apply as respects shares issued on or after the 23rd day of January, 1996, by a company to which this section applies and in respect of which the conditions in *subsection (6)* are met:

Provided that this subsection shall not apply as respects eligible shares, issued by a company on or after the 23rd day of April, 1996, to which the provisions of section 13A (as amended by this Act) of the Finance Act, 1984, apply.

(4) This section applies to a company which, or whose qualifying subsidiary, either carries on or intends to carry on one or more of the qualifying trading operations mentioned in subparagraph (i) (as amended by the Finance Act, 1990), (ii) (inserted by the Finance Act, 1990), (ii*d*) (inserted by the Finance Act, 1995), (ii*e*) (inserted by the Finance Act, 1995), (iii*a*) (inserted by the Finance Act, 1988), (iii*c*) (inserted by the Finance Act, 1990), (iii*d*) (inserted by the Finance Act, 1994), (iv) or (v) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection (2) of section 16 of the Finance Act, 1984.

(5) The conditions of this subsection, referred to in *subsection (2)*, are—

(*a*) the eligible shares are issued on or before the 5th day of April, 1996, and

(*b*) the eligible shares are issued following a subscription on behalf of an individual by a person or persons having the management of a specified designated fund, and

(*c*) the company concerned proves to the satisfaction of the Revenue Commissioners that on or before the 23rd day of January, 1996, it had the intention of raising money, on or before the 5th day of April, 1996, under the provisions of Chapter III of Part I of the Finance Act, 1984, through the specified designated fund referred to in *paragraph (b)*:

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Provided that, in determining whether they are satisfied that the company has complied with the requirements specified in *paragraph (c)*, the Revenue Commissioners shall have regard to the following—

(i) (I) signed heads of agreement between the company and the fund, or

(II) exchange of correspondence between the company and the fund showing a clear intention that the fund intended, on or before the 5th day of April, 1996, to subscribe for eligible shares in the company,

and

(ii) a certificate by the auditor of the fund confirming that it is a specified designated fund, and

(iii) any other information the Revenue Commissioners deem necessary for the purpose.

(6) The conditions of this subsection, referred to in *subsection (2)*, are—

(*a*) the shares are issued on or before the 30th day of August, 1996, and

(*b*) (i) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (i), (ii), (iii*a*) or (iii*d*) of paragraph (*a*) of subsection (2) of section 16 of the Finance Act, 1984, that—

(I) in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing—

(A) to purchase or lease land or a building,

(B) to purchase or lease plant or machinery, or

(C) for the construction or refurbishment of a building,

to be used in the carrying on of its qualifying trading operation, and

(II) the company proves to the satisfaction of the Revenue Commissioners that—

(A) on or before the 23rd day of January, 1996, it had an intention to raise money under the provisions of Chapter III of Part I of the Finance Act, 1984, and

(B) the contract which it or its qualifying subsidiary, as the case may be, had entered into was integral to, or consistent with, the purpose for which it had intended to raise money as aforesaid and that the consideration of the said contract is equal to 25 per cent. or more of the money which it is

intended to raise under the provisions of the said Chapter III:

Provided that, in determining whether they are satisfied that the company has complied with the requirements specified in *clause (II)*, the Revenue Commissioners shall have regard to either or both of the following—

(AA) an application in writing made by the company to the Revenue Commissioners in the specified period for the opinion of the Revenue Commissioners as to whether the company would be a qualifying company for the purposes of Chapter III of Part I of the Finance Act, 1984, and

(BB) the publication in the specified period of a prospectus by, or on behalf of, the company;

(ii) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (ii*d*), (iii*c*) or (v) of paragraph (*a*) of subsection (2) of section 16 of the Finance Act, 1984, that on or before the 23rd day of January, 1996, it had an intention to raise money under the provisions of Chapter III of Part I of the Finance Act, 1984:

Provided that, in determining whether they are so satisfied, the Revenue Commissioners shall have regard to either or both of the following—

(I) an application in writing made by the company to the Revenue Commissioners in the specified period for the opinion of the Revenue Commissioners as to whether the company would be a qualifying company for the purposes of Chapter III of Part I of the Finance Act, 1984, and

(II) the publication in the specified period of a prospectus by, or on behalf of, the company;

(iii) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (ii*e*) of paragraph (*a*) of subsection (2) of section 16 of the Finance Act, 1984, that—

(I) on or before the 23rd day of January, 1996, the company or its qualifying subsidiary, as the case may be, had submitted to, and had approved of by, the Minister for Agriculture, Food and Forestry a three-year development and marketing plan as is mentioned in paragraph (*a*) of subsection (3B) (inserted by the Finance Act, 1995) of section 15 of the Finance Act, 1984, in respect of its qualifying trading operation,

(II) in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing—

(A) to purchase or lease greenhouses,

(B) to purchase or lease plant or machinery, or

(C) for the construction or refurbishment of greenhouses,

to be used in the carrying on of its qualifying trading operation, and

(III) the company proves to the satisfaction of the Revenue Commissioners that the contract which it, or its qualifying subsidiary, as the case may be, had entered into was integral to, or consistent with, the three-year development and marketing plan approved of by the Minister for Agriculture, Food and Forestry and that the consideration of the said contract is equal to 25 per cent. or more of the money which it is intended to raise under the provisions of Chapter III of Part I of the Finance Act, 1984, and

(iv) in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on a qualifying trading operation as is mentioned in subparagraph (iv) of paragraph (*a*) of subsection (2) of section 16 of the Finance Act, 1984, that—

(I) on or before the 23rd day of January, 1996, the company or its qualifying subsidiary, as the case may be, had submitted to, and had approved of by, Bord Fáilte Éireann a three-year development and marketing plan as is mentioned in paragraph (*a*) of subsection (3A) (inserted by the Finance Act, 1987) of section 15 of the Finance Act, 1984, in respect of its qualifying trading operation,

(II) in the specified period the company or its qualifying subsidiary, as the case may be, had entered into a binding contract in writing—

(A) to purchase or lease land or a building,

(B) to purchase or lease plant or machinery, or

(C) for the construction or refurbishment of a building,

to be used in the carrying on of its qualifying trading operation, and

(III) the company proves to the satisfaction of the Revenue Commissioners that the contract which it, or its qualifying subsidiary, as the case may be, had entered into was integral to, or consistent with, the three-year development and marketing plan approved of by Bord Fáilte Éireann and that the consideration of the said contract

is equal to 25 per cent. or more of the money which it is intended to raise under the provisions of Chapter III of Part I of the Finance Act, 1984.

(7) For the purposes of *subsection (6)*—

(*a*) the date on which a contract was entered into by a company or, as the case may be, its qualifying subsidiary, and

(*b*) the date on which a prospectus was published by, or on behalf of, a company,

shall be confirmed in a certificate by the auditor of the company, or its qualifying subsidiary, as appropriate.

Amendment of section 15 (qualifying companies) of Finance Act, 1984.

22.—Section 15 of the Finance Act, 1984, is hereby amended by the insertion of the following subsection after subsection (3B):

"(3C) A company, whose trade consists of the production, publication, marketing and promotion of a qualifying recording within the meaning of subsection (2D) (inserted by the *Finance Act, 1996*) of section 16, shall not be a qualifying company—

(*a*) unless it exists solely for the purposes of the production, publication, marketing and promotion of a qualifying recording or qualifying recordings by one, and only one, new artist, and

(*b*) unless and until and so long as it shows to the satisfaction of the Revenue Commissioners that a certificate referred to in the said subsection (2D) has been given, and not revoked, by the Minister for Arts, Culture and the Gaeltacht to the company in relation to such qualifying recording or qualifying recordings.".

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

23.—Section 16 of the Finance Act, 1984, is hereby amended—

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

(i) by the substitution of the following subparagraph for subparagraph (ii*b*) (inserted by the Finance Act, 1995):

"(ii*b*) in respect of—

(I) a relevant investment made on or after the passing of the Finance Act, 1995, or

(II) a subscription for eligible shares, other than such a subscription consisting of a relevant investment, made on or after the passing of the *Finance Act, 1996*, and on or before the 5th day of April, 1998, and in respect of which a certificate for the purposes of this Chapter has been issued in accordance with the provisions of subsection (2E) (inserted by the *Finance Act, 1996*),

and notwithstanding the provisions of subparagraph (ii), the rendering of relevant trading

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operations within the meaning of section 39B of the Finance Act, 1980 (inserted by the Finance Act, 1987), which are carried on for the purposes of, or in connection with, trading operations on an exchange facility established in the Custom House Docks Area as defined in section 41 of the Finance Act, 1986,",

and

(ii) by the insertion of the following subparagraph after subparagraph (iii*d*) (inserted by the Finance Act, 1994):

"(iii*e*) in respect of a subscription for eligible shares made on or after the passing of the *Finance Act, 1996*, the production, publication, marketing and promotion of a qualifying recording, or qualifying recordings, within the meaning of subsection (2D) (inserted by the *Finance Act, 1996*),",

(*b*) by the insertion of the following subsections after subsection (2C) (inserted by the Finance Act, 1995):

"(2D) (*a*) For the purposes of subparagraph (iii*e*) of paragraph (*a*) of subsection (2), a qualifying recording means a recording, in any recording format in any musical style including any associated video directly related to such recording, by a new artist, produced in a studio in the State, in respect of which the Minister for Arts, Culture and the Gaeltacht (hereinafter in this subsection referred to as 'the Minister') has, subject to such conditions as the Minister may consider proper and specifies therein including a condition as to the maximum amount of money which may be raised under the provisions of this Chapter in relation to a qualifying recording, given a certificate to the company which intends to produce the qualifying recording, stating that the recording and any associated video, as aforesaid, may be treated as a qualifying recording for the purposes of this Chapter.

(*b*) In considering whether to give such a certificate as is referred to in paragraph (*a*), the Minister shall have regard only to such guidelines as the Minister may, from time to time, lay down with the consent of the Minister for Finance, and those guidelines may, without prejudice to the generality of the foregoing, include provision for—

(i) the circumstances in which an artist is to be, and continues to be, regarded as a new artist, and

(ii) the manner, extent and timing in which the money to be raised under the provisions of this Chapter by a company for the production, publication, marketing

and promotion of a qualifying recording is to be used.

(*c*) A certificate to which paragraph (*a*) refers or any condition thereof may be amended, revoked or added to by the Minister, by giving notice in writing to the qualifying company concerned of such amendment, revocation or addition, and the provisions of this section shall apply as if—

(i) a condition as so amended or added by the notice was specified in the certificate, and

(ii) a condition as so revoked was not specified in the certificate.

(2E) (*a*) In this subsection, 'certification committee' means the committee consisting of a chairman and four other members who, from time to time, may be appointed by the Minister for Finance for the purposes of this section.

(*b*) The certification committee may, subject to such conditions as the committee consider proper and specifies therein including a condition as to the maximum amount of money which may be raised by the company under the provisions of this Chapter, issue a certificate for the purposes of this Chapter to a company, which carries on or intends to carry on qualifying trading operations such as are referred to in subparagraph (ii*b*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) of subsection (2) and in respect of which money is raised or intended to be raised by it under the provisions of this Chapter by virtue of clause (II) of the aforesaid subparagraph (ii*b*), where—

(i) on the basis of such information as is supplied to it by the company or which the committee may reasonably request the company to furnish to it, and

(ii) such guidelines for the purpose as may be agreed, from time to time, between it and the Minister for Finance,

it is satisfied that—

(I) the qualifying trading operations carried on or to be carried on by the company will contribute to the development of the exchange facility on which those operations will be carried on, and

(II) the money raised or to be raised by the company under the provisions of this Chapter has the potential to maintain or create a reasonable level of sustainable employment:

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Provided that the committee shall not give a certificate to a company under this subsection—

(A) after the 5th day of April, 1998, and

(B) to the extent that the aggregate of all subscriptions made or to be made for eligible shares arising out of the issue of such certificates exceeds £2,000,000.",

and

(*c*) in subsection (4), by the substitution in paragraph (*b*) of the following subparagraphs for subparagraph (ii):

"(ii) the research and development or other similar activity as is referred to in subparagraph (iii*c*) (inserted by the Finance Act, 1993) of paragraph (*a*) of subsection (2), and

(iii) the production, publication, marketing and promotion of a qualifying recording, or qualifying recordings, as is referred to in subparagraph (iii*e*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) of subsection (2):".

Amendment of section 16A (relevant trading operations) of Finance Act, 1984.

24.—Section 16A (inserted by the Finance Act, 1995) of the Finance Act, 1984, is hereby amended—

(*a*) in subsection (2), by the substitution in clause (I) of subparagraph (ii) of paragraph (*b*) of "the Minister for Enterprise and Employment or the Minister for the Marine or the Minister for Tourism and Trade" for "the Minister for Enterprise and Employment or the Minister for Tourism and Trade",

and

(*b*) in subsection (4)—

(i) by the insertion of the following paragraphs for paragraph (*b*):

"(*b*) the Minister for Agriculture, Food and Forestry in respect of such qualifying trading operations as are referred to in section 16 (2) (*a*) (iii*a*) (inserted by the Finance Act, 1988), or

(*c*) the Minister for Arts, Culture and the Gaeltacht in respect of such qualifying trading operations as are referred to in subparagraph (iii*e*) (inserted by the *Finance Act, 1996*) of paragraph (*a*) (inserted by the Finance Act, 1987) of subsection 2 of section 16,",

and

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

"(ii) between the Minister for Agriculture, Food and Forestry or the Minister for Arts, Culture and

the Gaeltacht, as may be appropriate, and the Minister for Finance.". PT.I S.24

CHAPTER III

Income Tax, Corporation Tax and Capital Gains Tax

Stud greyhound service fees.

25.—(1) In this section—

"greyhound bitches" means female greyhounds registered in the Irish Greyhound Stud Book or in any other greyhound stud book recognised for the purposes of the Irish Greyhound Stud Book;

"stud greyhound" means a male greyhound registered as a sire for stud purposes in the Irish Greyhound Stud Book or in any other greyhound stud book recognised for the purposes of the Irish Greyhound Stud Book.

(2) (*a*) As respects income tax for the year 1996-97 and subsequent years of assessment, and

(*b*) as respects corporation tax for an accounting period ending on or after the 6th day of April, 1996,

the profits or gains arising—

(i) to the owner of a stud greyhound which is ordinarily kept in the State from the sale of services of greyhound bitches within the State by the stud greyhound or to the part-owner of such a stud greyhound from the sale of such services or of rights to such services, or

(ii) to the part-owner of a stud greyhound which is ordinarily kept outside the State from the sale of services of greyhound bitches by the stud greyhound or of rights to such services where the part-owner carries on in the State a trade which consists of or includes greyhound breeding, and it is shown to the satisfaction of the inspector or, on appeal, to the satisfaction of the Appeal Commissioners, that the part-ownership of the stud greyhound was acquired and is held primarily for the purposes of the service by the stud greyhound of greyhound bitches owned or partly-owned by the part-owner of the stud greyhound in the course of that trade,

shall not be taken into account for any purpose of the Tax Acts.

(3) Section 93 of the Corporation Tax Act, 1976, is hereby amended by the substitution in subsection (1) of the following paragraphs for paragraph (*b*):

"(*b*) the said section 18 as applied by section 11 (6) (continuation of exemptions), or

(*c*) *section 25* of the *Finance Act, 1996* (stud greyhound service fees),".

(4) This section applies to profits or gains arising on or after the 6th day of April, 1996.

Pt.I
Amendment of section 41B (capital allowances in relation to construction or refurbishment of certain multi-storey car-parks) of Finance Act, 1994.

26.—(1) Section 41B (inserted by section 35 of the Finance Act, 1995) of the Finance Act, 1994, is hereby amended in subsection (1) by the substitution of the following for the definition of "the relevant local authority":

" 'the relevant local authority', in relation to the construction or refurbishment of a multi-storey car-park, means—

(*a*) the corporation of a county or other borough or, where appropriate, the urban district council, or

(*b*) in respect of the administrative county of Dún Laoghaire-Rathdown, the administrative county of Fingal or the administrative county of South Dublin, the council of the county,

in whose functional area the multi-storey car-park is situated.".

(2) *Subsection (1)* shall be deemed to have applied and have effect as on and from the 1st day of July, 1995.

Amendment of section 22 (continuation of certain allowances, etc.) of Finance Act, 1991.

27.—Section 22 of the Finance Act, 1991, is hereby amended with effect as on and from the 1st day of April, 1996—

(*a*) by the substitution of the following subsection for subsection (1):

"(1) Subsection (2A) (*a*) of section 254 of the Income Tax Act, 1967, shall have effect as if the reference therein to the 1st day of April, 1991 (as provided for in section 50 of the Finance Act, 1988) were a reference to the 25th day of January, 1999:

Provided that the said subsection (2A) (*a*) shall have such effect for the purposes only of section 51 of the Finance Act, 1988, and Chapter VII of Part I of the Finance Act, 1991.",

and

(*b*) by the deletion of the Table to that section.

Continuation of certain industrial buildings annual allowances.

28.—(1) Section 264 of the Income Tax Act, 1967, is hereby amended—

(*a*) in the proviso to subsection (1), by the substitution of the following paragraph for paragraph (ii):

"(ii) in relation to a building or structure—

(I) the capital expenditure on the construction of which has been incurred on or after the 16th day of January, 1975, and which falls to be regarded as an industrial building or structure within the meaning of paragraph (*a*) or (*b*) of section 255 (1), and

(II) the capital expenditure on the construction of which has been incurred on or after the 24th day of April, 1992, and which falls to be regarded

as an industrial building or structure within the meaning of section 255 (1) (*bb*),

this Part shall have effect as if 'one-twenty-fifth' were substituted for 'one-fiftieth' in the foregoing provisions of this subsection.",

and

(*b*) in the proviso to subsection (3), by the substitution of the following paragraph for paragraph (ii):

"(ii) in relation to a building or structure—

(I) the capital expenditure on the construction of which has been incurred on or after the 16th day of January, 1975, and which falls to be regarded as an industrial building or structure within the meaning of paragraph (*a*) or (*b*) of section 255 (1), and

(II) the capital expenditure on the construction of which has been incurred on or after the 24th day of April, 1992, and which falls to be regarded as an industrial building or structure within the meaning of section 255 (1) (*bb*),

this Part shall have effect as if 'twenty-five years' were substituted for 'fifty years' in the foregoing provisions of this subsection.".

(2) Section 265 of the Income Tax Act, 1967, is hereby amended, in the proviso to subsection (1), by the substitution of the following paragraph for paragraph (iii):

"(iii) in relation to a building or structure—

(I) the capital expenditure on the construction of which has been incurred on or after the 16th day of January, 1975, and which falls to be regarded as an industrial building or structure within the meaning of paragraph (*a*) or (*b*) of section 255 (1), and

(II) the capital expenditure on the construction of which has been incurred on or after the 24th day of April, 1992, and which falls to be regarded as an industrial building or structure within the meaning of section 255 (1) (*bb*),

this Part shall have effect as if 'twenty-five years' were substituted for 'fifty years' in the foregoing provisions of this subsection.".

Amendment of section 255 (meaning of "industrial building or structure") of Income Tax Act, 1967.

29.—Section 255 of the Income Tax Act, 1967, is hereby amended in subsection (1) by the insertion of the following additional proviso after the proviso to that subsection:

"Provided also that expenditure incurred by a person on or after the 23rd day of April, 1996, either on the construction of, or on the acquisition of the relevant interest in, a building or structure which is not situated in the State shall not be treated as expenditure on a

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building or structure within the meaning of this section unless, being a building or structure not situated in the State—

(*a*) it is a building or structure which is to be constructed or which is in the course of construction and in respect of which it can be shown that—

(i) the said person has either entered into a binding contract in writing for the acquisition of the site for the building or structure or has entered into an agreement in writing in relation to an option to acquire the said site on or before the 23rd day of April, 1996, and

(ii) the said person has entered into a binding contract in writing for the construction of the building or structure on or before the 1st day of July, 1996, and

(iii) the construction of the building or structure had commenced on or before the said 1st day of July and had been completed before the 31st day of December, 1997,

and

(*b*) it is a building or structure to be constructed or which is being constructed which will be used for the purposes of a trade the profits or gains from which are taxable in the State.".

Amendment of Chapter III (Income Tax and Corporation Tax: Reliefs for Renewal and Improvement of Certain Resort Areas) of Part I of Finance Act, 1995.

30.—Chapter III of Part I of the Finance Act, 1995, is hereby amended by the insertion of the following section after section 49:

"Restriction of capital allowances on holiday cottages, holiday apartments, etc.

49A.—(1) This section applies to—

(*a*) a building or structure to which section 47 applies by virtue of the building or structure being a holiday cottage of the type referred to in the proviso to section 255 (1) of the Income Tax Act, 1967, and

(*b*) a building or structure which is a qualifying premises within the meaning of section 48 by virtue of the building or structure being—

(i) a holiday apartment registered under Part III of the Tourist Traffic Act, 1939, or

(ii) other self-catering accommodation in a list published under section 9 of the Tourist Traffic Act, 1957.

(2) (*a*) Subject to subsection (5), a building or structure to which this section applies shall not be a qualifying premises for the purposes of section 49, unless the person to whom an allowance under Chapter II of Part XV, or Chapter I

of Part XVI, of the Income Tax Act, 1967, would, but for subsection (3), fall to be made for the purposes of income tax or corporation tax, as the case may be, in respect of the capital expenditure incurred in the qualifying period on the construction or refurbishment of the building or structure, elects by notice in writing to the appropriate inspector (within the meaning of section 9 of the Finance Act, 1988) to disclaim all allowances under the said Chapter II and the said Chapter I in respect of the said capital expenditure.

(*b*) An election under paragraph (*a*) shall be included in the return required to be made by the person concerned under section 10 of the Finance Act, 1988, for the first year of assessment or the first accounting period, as the case may be, for which an allowance would, but for subsection (3), have fallen to be made to that person under the said Chapter II or the said Chapter I in respect of the said capital expenditure.

(*c*) An election under paragraph (*a*) shall be irrevocable.

(*d*) A person who has made an election under paragraph (*a*) shall furnish a copy of that election to any person (hereafter in this paragraph referred to as 'the second-mentioned person') to whom the person grants a qualifying lease (within the meaning of section 49) in respect of a building or structure to which this section applies and the second-mentioned person shall include the said copy in the return required to be made by the second-mentioned person under section 10 of the Finance Act, 1988, for the year of assessment or accounting period, as the case may be, in which rent is first payable by the second-mentioned person under the qualifying lease in respect of such a building or structure.

(3) Subject to subsection (5), where a person who has incurred capital expenditure in the qualifying period on the construction or refurbishment of a building or structure to which this section applies, makes an election under paragraph (*a*) of subsection (2), then, notwithstanding any other provision of the Tax Acts—

(*a*) no allowance under Chapter II of Part XV, or Chapter I of Part XVI, of the

Income Tax Act, 1967, shall be made to the person in respect of the said capital expenditure,

(*b*) on the occurrence, in relation to the building or structure, of any of the events referred to in section 265 (1) of the Income Tax Act, 1967, the residue of expenditure (within the meaning of section 266 of that Act) in relation to the said capital expenditure shall be deemed to be nil, and

(*c*) the provisions of section 19 (as amended by section 23 of the Finance Act, 1991) of the Finance Act, 1970, shall not apply or have effect in the case of any person who buys the relevant interest (within the meaning of section 268 of the Income Tax Act, 1967) in the building or structure.

(4) Subject to subsection (5), where, in the qualifying period, a person incurs capital expenditure on the acquisition, construction or refurbishment of a building or structure which is, or is to be, a building or structure to which paragraph (*b*) of subsection (1) applies and an allowance falls to be made in respect of that expenditure under section 254 (as amended by section 22 of the Finance Act, 1994) or 264 (as amended by *section 28* of the *Finance Act, 1996*) of the Income Tax Act, 1967, then—

(*a*) neither—

(i) section 307 (as amended by section 27 of the Finance Act, 1990) of the Income Tax Act, 1967, nor

(ii) subsection (2) of section 16 of the Corporation Tax Act, 1976,

shall apply or have effect as respects the whole or part (as the case may be) of any loss which would not have arisen but for the making of the said allowance, and

(*b*) neither the proviso to subsection (1) of section 296 of the Income Tax Act, 1967, nor subsection (6) of section 14 of the Corporation Tax Act, 1976, shall apply or have effect as respects the said allowance.

(5) This section shall not apply—

(*a*) to expenditure incurred within the qualifying period on the acquisition, construction or refurbishment of a building or structure (hereafter in this

subsection referred to as 'the holiday cottage or apartment') which is, or is to be, a building or structure to which this section applies if, before the 5th day of April, 1996—

(i) a binding contract in writing for the acquisition or construction of the holiday cottage or apartment was entered into, or

(ii) an application for planning permission for the construction of the holiday cottage or apartment was received by a planning authority, or

(iii) in relation to the holiday cottage or apartment, an opinion in writing was issued by the Revenue Commissioners to the effect that an allowance to be made in respect of expenditure on the said holiday cottage or apartment would not fall to be restricted by virtue of section 24 of the Finance Act, 1991,

or

(*b*) where before the 5th day of April, 1996—

(i) expenditure was incurred on the acquisition of land on which the holiday cottage or apartment is to be constructed or refurbished, by the person who incurred the expenditure on the said construction or refurbishment, or

(ii) a binding contract in writing for the acquisition of the said land by the said person was entered into,

and the said person can prove to the satisfaction of the Revenue Commissioners that a detailed plan had been prepared and that detailed discussions had taken place with a planning authority in relation to the holiday cottage or apartment on or after the 8th day of February, 1995 but before the 5th day of April, 1996 and that this can be supported by way of an affidavit from the said planning authority.".

Relief for investment in films.

31.—(1) Subject to *subsections (2)* and *(3)*, Chapter V of Part I of the Finance Act, 1987, is hereby amended, as respects a sum of money which is paid on or after the 23rd day of January, 1996, by the substitution for section 35 of the following section—

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"35.—(1) In this section:

'allowable investor company' means, in relation to a qualifying company, a company which is not connected with the qualifying company;

'authorised officer' means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section;

'film' means a film which is produced—

(*a*) on a commercial basis with a view to the realisation of profit, and

(*b*) wholly or principally for exhibition to the public in cinemas or by way of television broadcasting,

but does not include a film made for exhibition as an advertising programme or as a commercial;

'the Minister' means the Minister for Arts, Culture and the Gaeltacht;

'qualifying company' means a company which—

(*a*) is incorporated in the State, and

(*b*) is resident in the State and is not resident elsewhere, and

(*c*) exists solely for the purposes of the production and distribution of one, and only one, qualifying film;

'qualifying film' means a film in respect of which the Minister has given a certificate under subsection (2) which certificate has not been revoked under that subsection;

'qualifying individual' means, in relation to a qualifying company, an individual who is not connected with the company;

'qualifying period' means—

(*a*) in relation to an allowable investor company, the period commencing on the 23rd day of January, 1996, and ending on the 22nd day of January, 1999, and

(*b*) in relation to a qualifying individual, the period commencing on the 23rd day of January, 1996, and ending on the 5th day of April, 1999;

'relevant deduction' means a deduction of an amount equal to 80 per cent. of a relevant investment;

'relevant investment' means a sum of money which is—

(*a*) paid in the qualifying period to a qualifying company in respect of shares in the company by an allowable investor company on its own behalf or by a qualifying individual on that individual's own behalf, and is paid by the allowable investor company or by the qualifying individual, as the case may be, directly to the qualifying company, and

(*b*) paid by the allowable investor company or the qualifying individual, as the case may be, for the purposes of enabling the qualifying company to produce a film in respect of which, at the time such sum of money is paid, the Minister has given notice in writing to the qualifying company that the Minister is satisfied, for the time being, that an application in writing containing such information as may be specified in guidelines referred to in subsection (2) has been made to enable the Minister to consider whether a certificate should be given to that company under that subsection, and

(*c*) used by the qualifying company, within two years of the receipt of that sum, for that purpose,

but does not include a sum of money paid to the qualifying company on terms which provide that it will be repaid, other than a provision for its repayment in the event of the Minister not giving a certificate under subsection (2), and a reference to the making of a relevant investment shall be construed as a reference to the payment of such a sum to a qualifying company.

(2) (*a*) (i) The Minister, on the making of an application by a qualifying company, may, in accordance with guidelines laid down by the Minister with the consent of the Minister for Finance, give a certificate to a qualifying company stating, in relation to a film to be produced by the company, that the film may be treated as a qualifying film for the purposes of this section.

(ii) An application under this section shall be in such form as the Minister may direct and shall contain such information as may be specified in the guidelines referred to in subparagraph (i).

(*b*) A certificate given by the Minister under paragraph (*a*) shall be subject to such conditions as the Minister may consider proper (having regard, in particular, to any contribution which the production of the film is expected to make to either or both the development of the film industry in the State and the promotion and expression of Irish culture) and specifies therein including—

(i) a condition that not less than—

(I) 75 per cent., or

(II) such lower percentage, not being less than 10 per cent., which, in accordance with guidelines laid down under paragraph (*a*), the Minister specifies in the certificate, of the work on the production of the film is carried out in the State,

(ii) a condition that the amount per cent. of the total cost of production of the film which may be met by relevant investments shall not exceed the amount per cent. (in the

proviso to this provision referred to as 'the specified percentage') specified in the certificate:

Provided that—

(I) subject to paragraph (II) of this proviso, the specified percentage shall not exceed—

(A) where the total cost of production of the film does not exceed £4,000,000, 60 per cent.,

(B) where the total cost of production of the film exceeds £4,000,000 and does not exceed £5,000,000, the amount per cent. (hereafter in this paragraph referred to as 'the allowable percentage') where the amount of the allowable percentage is determined by the formula—

$$60 - \frac{E}{£100,000}$$

where E is the excess of the total cost of production of the film over £4,000,000, and

(C) where the total cost of production of the film exceeds £5,000,000, 50 per cent.,

but in any case to which subparagraph (A), (B) or (C) relates, the total cost of production of the film which is met by relevant investments shall not exceed £7,500,000, and where the percentage of the work on the production of the film carried out in the State (in this proviso referred to as the 'lower percentage') is less than 50 per cent., paragraph (*b*) shall be construed as if the reference to 60 per cent., the reference to the allowable percentage and the reference to 50 per cent. were a reference to the lower percentage, and

(II) in relation to a film (otherwise than an animation film) in respect of which the principal photography commences at any time during the months of October, November, December and January, and the production of the film continues

to completion without unreasonable delay from that time, the references in paragraph (I) of this proviso to—

(A) 60 per cent., shall be construed as a reference to 66 per cent.,

(B) 50 per cent., shall be construed as a reference to 55 per cent., and

(C) £7,500,000 shall be treated as a reference to £8,250,000,

and

(iii) a condition that the qualifying company shall, in respect of the qualifying film concerned, notify the Minister in writing of when the principal photography has commenced, the first animation drawings have commenced or the first model movement has commenced, as appropriate:

Provided that the Minister may amend or revoke any such condition (including a condition added by virtue of this proviso) specified in the certificate, or add to such conditions, by giving notice in writing to the qualifying company concerned of the amendment, revocation or addition, and the provisions of this section shall apply as if—

(I) a condition as so amended or added by the notice was specified in the certificate, and

(II) a condition as so revoked was not specified in the certificate.

(*c*) Where a company fails to comply with any of the conditions to which a certificate given to it under paragraph (*a*) is subject by virtue of paragraph (*b*)—

(i) that failure shall constitute the failure of an event to happen by reason of which relief falls to be withdrawn under subsection (11), and

(ii) the Minister may, by notice in writing served by registered post on the company, revoke the certificate.

(3) Subject to the provisions of this section, where, in an accounting period, an allowable investor company makes a relevant investment, it shall, on making a claim in that behalf, be given a relevant deduction from its total profits for the accounting period:

Provided that, where the amount of the relevant deduction to which the allowable investor company is entitled under this

section in an accounting period exceeds its profits for that accounting period, an amount equal to ten-eighths of the amount of that excess shall be carried forward to the succeeding accounting period and the amount so carried forward shall be treated for the purposes of this section as if it were a relevant investment made in that succeeding accounting period.

(4) Where in any period of twelve months (in the proviso to this subsection referred to as a 'twelve month period') ending on an anniversary of the 22nd day of January, 1996, the amount, or the aggregate amount, of the relevant investments made, or treated as made, by an allowable investor company, or by such company and all companies (which other companies are referred to in the proviso to this subsection as 'connected companies') which, at any time in that period, would be regarded as connected with such company, exceeds £6,000,000, no relief shall be given under this section in respect of the amount of the excess and, where there is more than one relevant investment, the inspector or, on appeal, the Appeal Commissioners, shall make such apportionment of the relief available as shall be just and reasonable to allocate to each relevant investment a due proportion of the relief available and, where necessary, to grant to each allowable investor company concerned an amount of relief proportionate to the amount of the relevant investment or the aggregate amount of the relevant investments made by it in the period:

Provided that no relief shall be given under this section in respect of the amount or the aggregate amount of the relevant investments (in this proviso referred to as the 'total amount') made by an allowable investor company and its connected companies—

(*a*) to the extent that the amount of the relevant investment, or the total amount made in any one qualifying company, exceeds £2,000,000, and

(*b*) where in any twelve month period the total amount exceeds £2,000,000, to the extent that the excess comprises a relevant investment or relevant investments made in a qualifying company to enable the company to produce a film, the total cost of production of which exceeds £4,000,000.

(5) Subject to the provisions of this section, where, in any year of assessment, a qualifying individual makes a relevant investment, the individual shall, on making a claim in that behalf, be given a relevant deduction from the individual's total income for that year of assessment.

(6) A relevant deduction shall not be given under this section in respect of any relevant investment made by a qualifying individual in a qualifying company in any year of assessment unless the amount of that relevant investment, or the total amount of the relevant investments, made by the individual in the qualifying company in that year is £200 or more:

Provided that, in the case of a qualifying individual who is married and is assessed to tax for a year of assessment in accordance with the provisions of section 194 (inserted by section 18 of the Finance Act, 1980) of the Income Tax Act, 1967, or of that section as applied by section 195B (inserted by section 10 of the Finance Act, 1993) of the Income Tax Act, 1967, any

relevant investment made by the qualifying individual's spouse in the qualifying company in that year of assessment shall be deemed to have been made by the qualifying individual. Pt.I S.31

(7) A relevant deduction shall not be given to a qualifying individual under this section for a year of assessment to the extent to which the amount of the relevant investment, or the total amount of the relevant investments (whether or not made in the same qualifying company), made, or treated as made, by the individual in that year of assessment exceeds £25,000.

(8) If, for any year of assessment, a greater relevant deduction would be given to a qualifying individual under this section but for either or both of the following reasons, that is to say—

(*a*) an insufficiency of total income, or

(*b*) the operation of subsection (7),

ten-eighths of the relevant deduction which cannot be given to the individual under this section for either or both of those reasons shall be carried forward to the next year of assessment and shall be treated for the purposes of this section as a relevant investment made by the individual in that following year:

Provided that an amount shall not be carried forward to any year of assessment after the year 1998-99.

(9) To the extent that an amount once carried forward to a year of assessment under subsection (8) (and treated as a relevant investment made by a qualifying individual in that year of assessment) gives rise to a relevant deduction which is not deducted from the qualifying individual's total income for that year of assessment, the amount shall to that extent be carried forward again to the next following year of assessment (and treated as a relevant investment made by the individual in that next following year), and so on for succeeding years of assessment:

Provided that an amount shall not be carried forward to any year of assessment after the year 1998-99.

(10) A relevant deduction under this section shall be given to a qualifying individual for any year of assessment as follows:

(*a*) in the first instance, in respect of an amount of relevant investment carried forward from an earlier year of assessment in accordance with the provisions of subsection (8) or (9), and, in respect of such an amount so carried forward, for an earlier year of assessment in priority to a later year of assessment, and

(*b*) thereafter, and only thereafter, in respect of any other amount of relevant investment in respect of which a relevant deduction is to be given in that year of assessment.

(11) (*a*) A claim to relief under this section may be allowed at any time after the time specified in paragraph (*b*) in respect of the payment of a sum to a qualifying company, which, if it is used, within two years of its

being paid, by the qualifying company for the production of a qualifying film, will be a relevant investment, if all the conditions for relief are or will be satisfied, but the relief shall be withdrawn if, by reason of the happening of any subsequent event including the revocation by the Minister of a certificate under subsection (2) or the failure of an event to happen which at the time the relief was given was expected to happen, the company or the individual, as the case may be, making the claim was not entitled to the relief allowed.

(*b*) The time referred to in paragraph (*a*) is the time at which all of the following events have occurred, that is to say—

(i) the payment in respect of which relief is claimed has been made, and

(ii) in relation to the qualifying film the principal photography has commenced, the first animation drawings have commenced or the first model movement has commenced, as appropriate.

(12) A claim for relief in respect of a relevant investment in a company shall not be allowed unless it is accompanied by a certificate issued by the company in such form as the Revenue Commissioners may direct and certifying that the conditions for the relief, so far as applying to the company and the qualifying film, are or will be satisfied in relation to that investment.

(13) Before issuing a certificate for the purposes of subsection (12), a company shall furnish the authorised officer with—

(*a*) a statement to the effect that it satisfies or will satisfy the conditions for the relief, so far as they apply in relation to the company and a film,

(*b*) a copy of any notification required to be given to the Minister under subsection (2) (*b*) (iii),

(*c*) a copy of the certificate, including a copy of any notice given by the Minister amending, revoking or adding a condition to that certificate, under subsection (2) in respect of the film, and

(*d*) such other information as the Revenue Commissioners may reasonably require.

(14) A certificate to which subsection (12) relates shall not be issued without the authority of the authorised officer.

(15) Any statement under subsection (13) shall—

(*a*) contain such information as the Revenue Commissioners may reasonably require,

(*b*) be in such form as the Revenue Commissioners may direct, and

(*c*) contain a declaration that it is correct to the best of the company's knowledge and belief.

(16) Where a company has issued a certificate for the purposes of subsection (12), or furnished a statement under subsection (13), and either— Pt.I S.31

(*a*) the certificate or statement was made fraudulently or negligently, or

(*b*) the certificate was issued in contravention of subsection (14),

then—

(i) the company shall be liable to a penalty not exceeding £500 or, in the case of fraud, not exceeding £1,000, and such penalty may, without prejudice to any other method of recovery, be proceeded for and recovered summarily in the same manner as in summary proceedings for recovery of any fine or penalty under any Act relating to the excise, and

(ii) no relief shall be given under the provisions of this section and if any such relief has been given, it shall be withdrawn.

(17) For the purpose of regulations made under section 127 of the Income Tax Act, 1967, no regard shall be had to the relief unless a claim for it has been duly made and admitted.

(18) An allowable investor company or a qualifying individual shall not be entitled to relief in respect of a relevant investment unless the relevant investment—

(*a*) has been made for *bona fide* commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax,

(*b*) has been, or will be, used in the production of a qualifying film, and

(*c*) is made at the risk of the allowable investor company or the qualifying individual, as the case may be, and—

(i) in a case where it is made by an allowable investor company, neither the company nor any person who would be regarded as connected with the company, or

(ii) in a case where it is made by a qualifying individual, neither the individual nor any person who would be regarded as connected with the individual,

is entitled to receive any payment, in money or money's worth, or other benefit directly or indirectly borne by, or attributable to, the qualifying company other than a payment made on an arm's length basis for goods or services supplied or a payment out of the proceeds of exploiting the film to which the allowable investor company or the qualifying individual, as the case may be, is entitled under the terms subject to which the relevant investment is made.

(19) Where any relief has been given under this section which is subsequently found not to have been due or is to be withdrawn by virtue of subsection (11) or (16), it shall be withdrawn by making an assessment to corporation tax or income tax, as the case may be, under Case IV of Schedule D for the accounting period or accounting periods, or the year of assessment or years of assessment, as the case may be, in which relief was given and, notwithstanding anything in the Tax Acts, such an assessment may be made at any time.

(20) (*a*) Subject to paragraph (*c*), where an allowable investor company is entitled to relief under this section in respect of any sum, or any part of a sum, or would be so entitled on making due claim, as a relevant deduction from its total profits for any accounting period, it shall not be entitled to any relief for that sum or any part of a sum, in computing its income or profits, or as a deduction from its income or profits, for any accounting period under any other provision of the Corporation Tax Acts or the Capital Gains Tax Acts.

(*b*) Subject to paragraph (*c*), where a qualifying individual is entitled to relief under this section in respect of any sum, or any part of a sum, or would be so entitled on making due claim, as a relevant deduction from the individual's total income for any year of assessment—

(i) the individual shall not be entitled to any relief for that sum or part in computing the individual's total income, or as a deduction from the individual's total income, for any year of assessment under any other provision of the Income Tax Acts, and

(ii) so much of that sum or part as is equal to the amount of the relevant deduction given in relation thereto shall be treated as a sum which, by reason of paragraph 4 of Schedule 1 to the Capital Gains Tax Act, 1975, is to be excluded from the sums allowable as a deduction in the computation of gains and losses for the purposes of the Capital Gains Tax Acts.

(*c*) Where an allowable investor company or a qualifying individual has made a relevant investment by way of a subscription for new ordinary shares of a qualifying company and none of those shares are disposed of by the allowable investor company or the qualifying individual, as the case may be, within one year of their acquisition by that company or that individual, as the case may be, then the sums allowable as deductions from the consideration in the computation for the purpose of capital gains tax of the gain or loss accruing to the company or the individual, as the case may be, on the disposal of those shares shall be determined without regard to any relief under this section which the company or the individual, as the case may be, has obtained, or would be entitled on due claim to obtain, except that where those sums exceed the consideration they shall be reduced by an amount equal to—

(i) the amount of the relevant deduction allowed to the allowable investor company or the qualifying individual, as the case may be, under this section in respect of the subscription for those shares, or

(ii) the amount of the excess, whichever is the lesser amount:

Provided that, if the disposal of shares is by a qualifying individual, and the disposal falls within section 13 (5) of the Capital Gains Tax Act, 1975, the preceding provisions of this paragraph shall not apply.

(*d*) For the purposes of this subsection 'new ordinary shares' means new ordinary shares forming part of the ordinary share capital of a qualifying company which, throughout the period of one year commencing on the date such shares are issued, carry no present or future preferential right to dividends, or to a company's assets on its winding up, and no present or future preferential right to be redeemed.

(21) Section 157 of the Corporation Tax Act, 1976, shall apply for the purposes of this section.

(22) In the case of an individual, all such provisions of the Income Tax Acts as apply in relation to the deductions specified in sections 138 to 142 of the Income Tax Act, 1967, shall, with any necessary modifications, apply in relation to relief under this section.".

(2) (*a*) Where an allowable investor company has in the period of twelve months ending on the 22nd day of January, 1997, paid a sum of money to which *subsection (3)* applies then the reference in subsection (4) of section 35 (inserted by *subsection (1)*) to £6,000,000 shall, in respect of that period, be construed as a reference to £6,000,000 less the amount or if there is more amounts than one the aggregate of such amounts, of such sums of money, and

(*b*) where a qualifying individual has in the year of assessment 1995-96 paid a sum of money to which *subsection (3)* applies, the reference in subsection (7) of section 35 (inserted by *subsection (1)*) to £25,000 shall, in respect of that year of assessment, be construed as a reference to £25,000 less that amount or, if there is more amounts than one the aggregate of such amounts, of such sums of money.

(3) *Subsection (1)* shall not apply as respects a sum of money which is paid on or after the 23rd day of January, 1996, and on or before the 31st day of March, 1996, where the sum of money is paid in respect of shares in a qualifying company, and—

(*a*) the Minister for Arts, Culture and the Gaeltacht had received before the 23rd day of January, 1996, an application in writing to give a certificate to the company stating, in relation to a film to be produced by the company, that the film is a qualifying film, and

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(*b*) where a certificate is given by the Minister to the company after the 23rd day of January, 1996, it includes a statement that the Minister had received the said application before that date.

(4) As respects a sum of money—

(*a*) to which *subsection (1)* does not apply by virtue of *subsection (3)*, or

(*b*) which is paid before the 23rd day of January, 1996,

the provisions of section 35 of the Finance Act, 1987, which were in force immediately prior to the 23rd day of January, 1996, shall continue to have effect:

Provided that where the sum of money is a sum of money paid on or after the 6th day of April, 1995, or it is a sum of money to which *subsection (3)* applies and the sum of money is used for the purpose of enabling the qualifying company to produce a qualifying film in respect of which an application (to give a certificate under subsection (1A)) had not been received by the Minister before the 23rd day of January, 1996, the provisions shall have effect as if—

(i) subsection (2) was amended by the substitution for "a deduction of the amount of that investment" of "a deduction of an amount equal to 80 per cent. of that investment", and

(ii) subsection (3A) was amended by the substitution for "a deduction of the amount of that investment" of "a deduction of an amount equal to 80 per cent. of that investment".

Treatment of patent royalties and related distributions.

32.—(1) Section 34 of the Finance Act, 1973, is hereby amended in subsection (1) in the definition of "income from a qualifying patent" by the insertion after paragraph (*a*) of the following proviso:

"Provided that where the royalty or other sum exceeds the royalty or other sum which would have been paid if the payer of the royalty or other sum and the beneficial recipient thereof were independent persons acting at arm's length, the excess shall not be income from a qualifying patent,".

(2) Section 170 of the Corporation Tax Act, 1976, is hereby amended—

(*a*) in subsection (1) by the substitution for the definition of "disregarded income" of the following definition:

"'disregarded income' means—

(*a*) income from a qualifying patent which by virtue of subsection (2) of section 34 of the Finance Act, 1973 (income from patent royalties) has been disregarded for the purposes of income tax, and

(*b*) income from a qualifying patent which by virtue of subsection (2) of section 34 of the Finance

Act, 1973, and subsection (6) of section 11 has been disregarded for the purposes of corporation tax, PT.I S.32

but does not include income from a qualifying patent (in this section referred to as 'specified income') which would not be income from a qualifying patent if paragraph (*a*) of the definition of 'income from a qualifying patent' in subsection (1) of the said section 34 had not been enacted;",

and

(*b*) by the insertion after subsection (3A) of the following subsection:

"(3B) (*a*) Where for an accounting period a company makes one or more distributions out of specified income, so much of the amount of that distribution, or the aggregate of such distributions, as does not exceed the amount of aggregate expenditure on research and development incurred by the company in relation to the accounting period shall be treated as a distribution made out of disregarded income:

Provided that—

(I) subject to paragraph (II), if in an accounting period the beneficial recipient (hereafter in this proviso referred to as 'the recipient') of the specified income shows in writing to the satisfaction of the Revenue Commissioners that the specified income is income from a qualifying patent in respect of an invention which—

(A) involved radical innovation, and

(B) was patented for *bona fide* commercial reasons and not primarily for the purpose of avoiding liability to taxation,

the Revenue Commissioners shall, after consideration of any evidence in relation to the matter which the recipient submits to them and after such consultations (if any) as may seem to them to be necessary with such persons as in their opinion may be of assistance to them, determine whether all distributions made out of specified income accruing to the recipient for that

accounting period and all subsequent accounting periods are to be treated as distributions made out of disregarded income and the recipient shall be notified in writing of the determination,

(II) a recipient aggrieved by the determination of the Revenue Commissioners may, by notice in writing given to the Revenue Commissioners within thirty days of the date of notification advising of the determination, appeal to the Appeal Commissioners and the Appeal Commissioners shall hear and determine the appeal made to them as if it were an appeal against an assessment to income tax and all the provisions of the Income Tax Act, 1967, relating to the rehearing of an appeal and the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(*b*) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions, authorised by this subsection to be performed or discharged by the Revenue Commissioners and references in this subsection to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to an officer so nominated.

(*c*) In this subsection—

'the amount of aggregate expenditure on research and development incurred by a company in relation to an accounting period' means the amount of expenditure on research and development activities incurred in the State by the company in the accounting period and the previous two accounting periods:

Provided that where in an accounting period a company incurs expenditure on research and development activities and not less than 75 per cent. of the expenditure was incurred in the State, all of the expenditure shall be deemed to have been incurred in the State;

'the amount of the expenditure on research and development activities', in relation to expenditure incurred by a company in an

accounting period, means non-capital expenditure incurred by the company being the aggregate of the amounts of—

(i) such part of the emoluments paid by the company to employees of the company engaged in carrying out research and development activities related to the company's trade as is laid out for the purposes of the said activities,

(ii) expenditure incurred by the company on materials or goods used solely by the company in the carrying out of research and development activities related to the company's trade, and

(iii) a sum paid to another person, not being a person connected with the company, in order that such person may carry out research and development activities related to the company's trade:

Provided that where the company (hereafter in this proviso referred to as the 'first company') is a member of a group then for the purposes of this section the amount of expenditure on research and development activities incurred in an accounting period by another company which in the accounting period is a member of the group shall, on a joint election in writing being made on that behalf by the first company and the other company, be treated as being expenditure incurred on research and development activities in the accounting period by the first company and not by the other company;

'research and development activities' has the same meaning as in paragraph (*a*) of subsection (1) of section 59 of the Finance Act, 1995.

(*d*) In this subsection—

(i) two companies shall be deemed to be members of a group if both are wholly or mainly under the control of the same individual or individuals or if one is a 75 per cent. subsidiary of another or both are 75 per cent. subsidiaries of a third company:

Provided that in determining whether one company is a 75 per cent. subsidiary of another, the other company shall be treated as not being the owner—

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(I) of any share capital which it owns directly in a company if a profit on sale of the shares would be treated as a trading receipt of its trade, or

(II) of any share capital which it owns indirectly, and which is owned directly by a company for which a profit on the sale of the shares would be a trading receipt,

(ii) a company shall be wholly or mainly under the control of an individual or individuals if not less than 75 per cent. of the ordinary share capital of the company is owned directly or indirectly by the individual or, as the case may be, by individuals, each of whom own directly or indirectly part of that share capital,

(iii) sections 108 to 114 of the Corporation Tax Act, 1976, shall apply for the purposes of this paragraph as they apply for the purposes of Part XI of that Act and where two companies are deemed to be members of a group by reason that both are wholly or mainly under the control of the same individual or individuals those sections shall apply as they would apply for the purposes of the said Part if the references in those sections to a parent company included a reference to an individual or individuals who hold shares in a company.".

(3) This section shall apply—

(*a*) as respects *subsection (1)*, to a royalty or other sum paid on or after the 23rd day of April, 1996, and

(*b*) as respects *subsection (2)*, to a distribution made out of specified income accruing to a company on or after the 28th day of March, 1996.

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

33.—(1) Section 31 of the Finance Act, 1974, is hereby amended by the substitution for paragraph (*cc*) (inserted by the Finance Act, 1988) of subsection (3) of the following:

"(*cc*) interest paid to a person whose usual place of abode is outside the State by—

(i) a company in the course of carrying on relevant trading operations within the meaning of section 39A (inserted by the Finance Act, 1981) or section 39B (inserted by the Finance Act, 1987) of the Finance Act, 1980, or

(ii) a specified collective investment undertaking within the meaning of section 18 (as amended by *section 35* of the *Finance Act, 1996*) of the Finance Act, 1989,

or".

(2) This section shall apply and have effect as on and from the 28th day of March, 1996. Pt.I S.33

Allowance for mine rehabilitation expenditure.

34.—The Finance (Taxation of Profits of Certain Mines) Act, 1974, is hereby amended by the insertion, after section 8, of the following section:

"8A.—(1) (*a*) In this section—

'integrated pollution control licence' means a licence granted under section 83 of the Environmental Protection Agency Act, 1992;

'mine rehabilitation fund', in relation to a qualifying mine, means a fund—

(i) which consists of amounts paid by a person who is carrying on the trade of working a qualifying mine to another person (hereafter in this section referred to as the 'fund holder') who is not connected with the first-mentioned person,

(ii) which is obliged to be maintained under the terms—

(I) of a State mining facility, or

(II) of any other agreement in writing to which the Minister is a party and to which the State mining facility is subject,

(iii) the sole purpose of which is to have available at the time a qualifying mine ceases to be worked such amount as is specified in a certificate given by the Minister under subsection (2) as being the amount which, in the Minister's opinion, could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine, and

(iv) no part of which may be paid to the person, or a person connected with that person, who is working, or has worked the qualifying mine except where—

(I) the fund holder has been authorised in writing by the Minister, and by either or both the relevant local authority and the Environmental Protection Agency, to make a payment to the person, or the connected person, as the case may be, for the purposes of incurring rehabilitation expenditure in relation to the qualifying mine, or

(II) an amount may be paid to the person, or the connected person, as the case may be, after a certificate of completion of rehabilitation in relation to

the qualifying mine has been submitted to, and approved by—

(A) the Minister, and

(B) either or both the relevant local authority and the Environmental Protection Agency;

'the Minister' means the Minister for Transport, Energy and Communications;

'qualifying mine' means a mine that is being worked for the purpose of obtaining scheduled minerals, dolomite and dolomitic limestone, calcite and gypsum, or any of those minerals;

'rehabilitation expenditure' means expenditure incurred, in connection with the rehabilitation of the site of a mine, or part of a mine, in order to comply with any condition—

(i) of a State mining facility,

(ii) subject to which planning permission for development consisting of the mining and working of minerals was granted, or

(iii) subject to which an integrated pollution control licence for an activity specified in the First Schedule to the Environmental Protection Agency Act, 1992, was granted,

by a person who has ceased to work the mine;

'rehabilitation' includes landscaping and the carrying out of any activities which take place after the mine ceases to be worked and which are required by a condition subject to which planning permission for development consisting of the mining and working of minerals, or an integrated pollution control licence, was granted;

'relevant local authority', in relation to a qualifying mine, means the council of a county or the corporation of a county or other borough or, where appropriate, the urban district council, in whose functional area the mine is situated;

'relevant payments' means payments specified in accordance with paragraph (*b*) (iii) of subsection (2) in a certificate given under that subsection and which are paid at or about the time specified in the certificate;

'State mining facility', in relation to a mine, means a State mining lease, a State mining licence or a State mining permission granted by the Minister in relation to the mine.

(*b*) For the purposes of this section— PT.I S.34

(i) any reference to the site of a mine includes a reference to land used in connection with the working of the mine, and

(ii) the net cost to any person of the rehabilitation of the site of a mine is the excess, if any, of rehabilitation expenditure over any receipts which are attributable to the rehabilitation (whether for spoil or other assets removed from the site or for tipping rights or otherwise).

(2) (*a*) Where in relation to a fund the Minister is of the opinion that—

(i) the matters set out in paragraphs (i), (ii) and (iv) of the definition of 'mine rehabilitation fund' are satisfied, and

(ii) the sole purpose of the fund is to have available at the time a qualifying mine ceases to be worked such amount as could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine,

the Minister may give a certificate to that effect.

(*b*) A certificate given under paragraph (*a*) shall, in addition to the information specified in that paragraph, specify—

(i) the number of years, being the Minister's opinion of the life (hereafter in this section referred to as the 'estimated life of the mine') of the mine remaining at the time the certificate is given,

(ii) the amount which, in the Minister's opinion, could reasonably be expected to be necessary to meet rehabilitation expenditure in relation to the qualifying mine, and

(iii) the amounts (hereafter in this section referred to as the 'scheduled payments') which are required to be paid to the fund holder, and the times at which such amounts are to be paid, so as to achieve the purpose specified in paragraph (*a*) (ii).

(*c*) The Minister may, by notice in writing given to a person to whom a certificate has been given under this section, amend the certificate.

(3) (*a*) An allowance equal to so much of any rehabilitation expenditure in relation to a qualifying mine as does not exceed the net cost of the rehabilitation of the site of the mine shall be made to a person under this section for the chargeable period related to the expenditure.

(*b*) Expenditure incurred by a person after the person ceases to carry on the trade of working a qualifying mine shall be treated as having been incurred on the last day on which the person carried on the trade.

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(4) Where the Minister has issued a certificate under subsection (2) in respect of a mine rehabilitation fund related to a qualifying mine, an allowance shall be made to the person who—

(*a*) is working the qualifying mine, and

(*b*) is obliged to make relevant payments to the fund holder in relation to the fund,

for any chargeable period which falls wholly or partly into the period (hereafter in this subsection referred to as the 'funding period') commencing on the date on which the Minister gives the certificate and ending at the end of the estimated life of the mine and the amount of the allowance shall be an amount determined by the formula—

$$E \times \frac{N}{12} \times \frac{1}{L}$$

where—

E is the aggregate of scheduled payments,

N is the number of months in the chargeable period, or the part of the chargeable period falling into the funding period, and

L is the number of years in the estimated life of the mine:

Provided that—

(i) the aggregate of the amounts of allowances under this subsection for a chargeable period and all preceding chargeable periods shall not exceed the aggregate of the amounts of relevant payments made in the chargeable period or its basis period and in all preceding chargeable periods or their basis periods, and

(ii) where effect cannot be given to an allowance, or part of an allowance, under this subsection for a chargeable period by virtue of paragraph (i), the allowance or the part of the allowance, as the case may be, shall be added to the amount of an allowance under this subsection for the following chargeable period and, subject to paragraph (i), shall be deemed to be part of the allowance for that period, or, if there is no such allowance for that period, shall be deemed to be the allowance for that period, and so on for succeeding periods.

(5)Where the Minister by notice in writing amends a certificate under subsection (2) (*c*) in a chargeable period or its basis period—

(*a*) if the aggregate of the amounts of allowances made under subsection (4) for the chargeable period and all preceding chargeable periods exceeds the aggregate of the amounts of allowances which would have been made under that subsection for those chargeable periods if the certificate had been amended in accordance with the notice at the time the certificate

was given, an amount equal to the amount of the excess shall be treated as a trading receipt of the chargeable period in which, or in the basis period for which, the certificate was amended, and

(*b*) if the aggregate of the amounts of allowances which would have been made under subsection (4) for the chargeable period and all preceding chargeable periods if the certificate had been amended in accordance with the notice at the time the certificate was given exceeds the aggregate of the amounts of allowances made under that subsection for those chargeable periods, the allowance under subsection (4) for the chargeable period shall, subject to paragraph (i) of the proviso to subsection (4), be increased by an amount equal to the excess.

(6) (*a*) Subject to paragraph (*b*), an amount received by a person who is working, or has worked a qualifying mine, or by a person connected with such a person, from the fund holder of a mine rehabilitation fund in relation to the qualifying mine, or otherwise in connection with the mine rehabilitation fund, shall, in accordance with this section, be treated as trading income of the person.

(*b*) The amount to be treated as trading income for a chargeable period shall not exceed the excess of the aggregate of the amounts of allowances made under subsections (4) and (5) in that chargeable period and in any preceding chargeable periods over the aggregate amounts treated under this subsection or subsection (5) as trading income for all preceding chargeable periods.

(*c*) An amount which falls to be treated under this subsection as trading income of a person shall be treated as income of—

(i) where the amount is received at any time when the person is working the qualifying mine, the chargeable period in which, or in the basis period for which, the amount is received, and

(ii) in any other case, the chargeable period in which the mine ceases to be worked.

(*d*) Notwithstanding paragraph (*c*), where an amount falls to be treated as income of a chargeable period in accordance with subparagraph (ii) of that paragraph, the amount shall be assessed for the chargeable period in which, or in the basis period for which, the amount is received and details of the receipt of the amount shall be included in the return required to be made by the person under section 10 of the Finance Act, 1988, for that chargeable period.

(7) Where a person (hereinafter in this subsection referred to as the 'first-mentioned person') ceases to work a qualifying mine and any obligations of the first-mentioned person to rehabilitate the site of the mine are transferred to any other person the other person shall be treated for the purposes of this section as if that

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other person had worked the qualifying mine and as if everything done to or by the first-mentioned person had been done to or by that other person.

(8) As respects any person who incurs rehabilitation expenditure in respect of which an allowance is made under subsection (3)—

(*a*) rehabilitation expenditure shall not be deductible in computing income of the person for any purpose of income tax or corporation tax,

(*b*) an allowance shall not be made under any provision of the Tax Acts, other than this section, in respect of the expenditure, and

(*c*) to the extent that any receipts are, under subsection (1) (*b*) (ii), taken into account to determine the net cost of the rehabilitation of the site of a mine, those receipts shall not constitute income of the person for any purpose of income tax or corporation tax.

(9) An allowance made to a person who is carrying on a trade of working a mine under this section shall be made in taxing that trade and section 241 (3) of the Income Tax Act, 1967, shall apply in relation to an allowance under subsection (4) as it applies in relation to allowances for wear and tear of machinery and plant.

(10) *Section 131* shall apply for the purposes of this section.".

Amendment of section 18 (taxation of collective investment undertakings) of Finance Act, 1989.

35.—(1) Section 18 (as amended by the Finance Act, 1995) of the Finance Act, 1989, is hereby amended in subsection (1)—

(*a*) by the insertion after the definition of "return" of the following definition:

"'specified company' means a company—

(*a*) which is—

(i) a qualified company carrying on relevant trading operations (within the meaning of section 39B of the Finance Act, 1980), or

(ii) a qualified company carrying on relevant trading operations (within the meaning of section 39A of the Finance Act, 1980) so long as the relevant trading operations within the meaning of the said section 39A could be certified by the Minister for Finance as relevant trading operations for the purposes of section 39B of the Finance Act, 1980, if they were carried on in the Area (within the meaning of the said section 39B) rather than in the airport (within the meaning of section 39A),

and

(*b*) not more than 25 per cent. of the share capital of which is owned directly or indirectly by persons resident in the State;",

and

(*b*) by the insertion in paragraph (*b*) of the definition of "specified collective investment undertaking" after "Corporation Tax Act, 1976," of "a specified company".

(2) This section shall apply and have effect as on and from the 28th day of March, 1996.

Amendment of section 13 (special investment schemes) of Finance Act, 1993.

36.—(1) Section 13 of the Finance Act, 1993, is hereby amended in subsection (8) by the insertion after paragraph (*b*) of the following paragraph:

"(*bb*) (i) Where in a year of assessment (in this paragraph referred to as 'the first year of assessment') any securities which are assets subject to any trust created in pursuance of a special investment scheme are disposed of and in the immediately following year of assessment interest becoming payable in respect of the securities is receivable by the special investment scheme, then, for the purposes of computing the chargeable gains for the first year of assessment the price paid by the management company or the trustee for the securities shall be treated as reduced by the appropriate amount in respect of the interest:

Provided that where for a year of assessment the provisions of this paragraph apply so as to reduce the price paid for securities, the amount by which the price paid for the securities is reduced shall be treated as a loss arising, in the immediately following year of assessment, from the disposal of the securities.

(ii) In this paragraph—

'the appropriate amount in respect of the interest' means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 11 to the Income Tax Act, 1967, if the management company or the trustee was the first buyer and the management company or the trustee carried on a trade to which section 368 (1) of the said Act applies:

Provided that in determining the appropriate amount in respect of the interest in accordance with the said Schedule 11, paragraph 3 (4) of that Schedule shall apply as if there were deleted 'in the opinion of the Appeal Commissioners';

'securities' has the same meaning as in subsection (1) of section 29 of the Finance Act, 1984.".

(2) This section shall apply and have effect as respects a disposal on or after the 28th day of March, 1996.

Pt.I
Amendment of section 14 (special portfolio investment accounts) of Finance Act, 1993.

37.—(1) Section 14 of the Finance Act, 1993, is hereby amended—

(*a*) in subsection (1) in the definition of "designated broker" by the insertion after "the Irish Stock Exchange" of "or is a member firm (which carries on a trade in the State through a branch or agency) of a stock exchange of any other Member State of the European Union", and

(*b*) in subsection (4) by the insertion after paragraph (*b*) of the following paragraph:

"(*bb*) (i) Where in a year of assessment (hereafter in this paragraph referred to as 'the first year of assessment') securities which are assets of a special portfolio investment account are disposed of and in the immediately following year of assessment interest becoming payable in respect of the securities is receivable by the special portfolio investment account, then, for the purposes of computing the relevant income or gains for the first year of assessment, the price paid by the designated broker for the securities shall be treated as reduced by the appropriate amount in respect of the interest:

Provided that where for a year of assessment the provisions of this paragraph apply so as to reduce the price paid for securities, the amount by which the price paid for the securities is reduced shall be treated as a loss arising, in the immediately following year of assessment, from the disposal of the securities.

(ii) In this paragraph—

'the appropriate amount in respect of the interest' means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 11 to the Income Tax Act, 1967, if the designated broker were the first buyer and the designated broker carried on a trade to which section 368 (1) of that Act applies:

Provided that in so determining the appropriate amount in respect of the interest in accordance with the said Schedule 11, paragraph 3 (4) of that Schedule shall apply as if there were deleted 'in the opinion of the Appeal Commissioners';

'securities' has the same meaning as in subsection (1) of section 29 of the Finance Act, 1984.".

(2) This section shall apply and have effect as respects a disposal on or after the 28th day of March, 1996.

Pt.I
Amendment of section 17 (undertakings for collective investment) of Finance Act, 1993.

38.—(1) Section 17 (as amended by section 57 of the Finance Act, 1994) of the Finance Act, 1993, is hereby amended—

(*a*) by the insertion after the proviso to paragraph (*b*) of subsection (2) of the following additional proviso to that paragraph:

"Provided also that in computing profits for the purposes of the foregoing provisions of this paragraph, subsection (1A) of section 13 shall apply as if the rate per cent. of capital gains tax specified in subsection (3) of section 3 of the Capital Gains Tax Act, 1975, were the rate per cent. of corporation tax specified in paragraph (*b*) of subsection (1) of section 1.",

(*b*) by the insertion after paragraph (*d*) of subsection (4) of the following paragraph:

"(*e*) Where in a chargeable period an undertaking for collective investment incurs a loss on the disposal (hereafter in this paragraph referred to as the 'first-mentioned disposal') of an asset the gain or loss in respect of a deemed disposal of which was included in a net amount to which paragraph (*b*) (ii) applied for any preceding chargeable period, so much of the allowable loss on the first-mentioned disposal as is equal to the excess of the amount of the loss over the amount which, if paragraph (*a*) had not been enacted, would have been the allowable loss on the first-mentioned disposal shall be treated for purposes of paragraph (*b*) as an allowable loss which would otherwise accrue to the undertaking for collective investment on disposals deemed by virtue of paragraph (*a*) to have been made in the chargeable period.",

and

(*c*) by the insertion after subsection (6) of the following subsection:

"(6A) (*a*) Where in a chargeable period an undertaking for collective investment disposes of any securities and in the immediately following chargeable period or its basis period interest becoming payable in respect of the securities is receivable by the undertaking for collective investment, then, the gain or loss accruing on the disposal shall be computed as if the price paid by the undertaking for collective investment for the securities was reduced by the appropriate amount in respect of the interest:

Provided that where for a chargeable period the provisions of this paragraph apply so as to reduce the price paid for securities, the amount by which the price paid for the securities is reduced shall be treated as a loss arising, in the immediately following chargeable period, from the disposal of the securities.

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(*b*) In this paragraph—

'the appropriate amount in respect of the interest' means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 11 to the Income Tax Act, 1967, if the undertaking for collective investment was the first buyer and it carried on a trade to which section 368 (1) of the said Act applies:

Provided that in determining the appropriate amount in respect of the interest in accordance with the said Schedule 11, paragraph 3 (4) of that Schedule shall apply as if there were deleted 'in the opinion of the Appeal Commissioners';

'securities' has the same meaning as in subsection (1) of section 29 of the Finance Act, 1984.".

(2) This section shall apply and have effect—

(*a*) as respects *paragraph (a)* of *subsection (1)*, for accounting periods ending on or after the 1st day of April, 1995, and

(*b*) as respects *paragraphs (b)* and *(c)* of *subsection (1)*, in relation to a disposal on or after the 28th day of March, 1996.

Exemption of bodies designated under section 4 of Securitisation (Proceeds of Certain Mortgages) Act, 1995, from certain tax provisions.

39.—(1) In this section "designated body" means a body designated under section 4 (1) of the Securitisation (Proceeds of Certain Mortgages) Act, 1995.

(2) Notwithstanding any provision of the Tax Acts, income arising to a designated body shall be exempt from income tax and corporation tax.

(3) Any stock or other forms of security issued by a designated body shall be deemed to be securities issued under the authority of the Minister within the meaning of section 466 of the Income Tax Act, 1967, and that section shall apply accordingly.

(4) Section 474 of the Income Tax Act, 1967, is hereby amended by the insertion in subsection (1) after "Finance Act, 1994" (inserted by section 161 of the Finance Act, 1994) of ", or *section 39* of the *Finance Act, 1996*".

(5) Section 19 of the Capital Gains Tax Act, 1975, is hereby amended in subsection (1) by the insertion after paragraph (*b*) of the following paragraph:

"(*bb*) securities issued by a designated body within the meaning assigned by section 1 of the Securitisation (Proceeds of Certain Mortgages) Act, 1995;".

(6) Section 23 of the Capital Gains Tax Act, 1975, shall apply to a gain accruing to a designated body as it does to a gain accruing to a body specified in that section.

(7) Section 14 of the Securitisation (Proceeds of Certain Mortgages) Act, 1995, is hereby repealed and shall be deemed never to have had effect.

(8) This section shall be deemed to have come into operation on the 30th day of November, 1995. Pr.I S.39

Treatment under Tax Acts of certain employment grants and recruitment subsidies.

40.—(1) An employment grant or recruitment subsidy to which this section applies shall be disregarded for all the purposes of the Tax Acts.

(2) This section applies to an employment grant or recruitment subsidy made to an employer in respect of a person employed by him or her, under—

(*a*) the Back to Work Allowance Scheme, being a scheme established on the 1st day of October, 1993, and administered by the Minister for Social Welfare,

(*b*) any scheme which may be established by the Minister for Enterprise and Employment with the approval of the Minister for Finance for the purposes of promoting the employment of individuals who have been unemployed for three years or more and which is to be administered by An Foras Áiseanna Saothair,

(*c*) paragraph 13 of Annex B to an operating agreement between the Minister for Enterprise and Employment and a County Enterprise Board, being a board specified in the Schedule to the Industrial Development Act, 1995,

(*d*) the European Union Leader II Community Initiative 1994 to 1999, and which is administered in accordance with operating rules determined by the Minister for Agriculture, Food and Forestry,

(*e*) the European Union Operational Programme for Local Urban and Rural Development which is to be administered by the company incorporated under the Companies Acts, 1963 to 1990, on the 14th day of October, 1992, as Area Development Management Limited,

(*f*) the Special European Union Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland which was approved by the European Commission on the 28th day of July, 1995,

(*g*) the Joint Northern Ireland/Ireland INTERREG Programme 1994 to 1999, which was approved by the European Commission on the 27th day of February, 1995, or

(*h*) any initiatives of the International Fund for Ireland which was designated by the International Fund for Ireland (Designation and Immunities) Order, 1986 (S.I. No. 394 of 1986) as an organisation to which Part VIII of the Diplomatic Relations and Immunities Act, 1967, applies.

(3) This section shall apply and have effect as on and from the 6th day of April, 1996.

Amendment of section 17 (tax deduction from payments to sub-contractors) of Finance Act, 1970.

41.—As respects relevant contracts (within the meaning of section 17 of the Finance Act, 1970) entered into on or after the passing of this Act, section 17 (inserted by the Finance Act, 1976) of the Finance Act, 1970, is hereby amended—

(*a*) in subsection (1), by the insertion of the following proviso to the definition of "relevant contract":

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"Provided that a separate relevant contract shall be deemed to exist between the principal and each individual member of a gang or group of persons, including a partnership in respect of which the principal has not received a relevant payments card, where relevant operations are performed collectively by the gang or group, notwithstanding that any payment or part of a payment in respect of such relevant operations is made by the principal to one or more of the gang or group or to some other person;",

(*b*) in subsection (2), by the insertion after "the principal makes a payment" of "or is deemed to make a payment pursuant to subsection (2A)",

(*c*) by the insertion of the following subsection after subsection (2):

"(2A) Where relevant operations are performed by a gang or group of persons, including a partnership in respect of which the principal has not received a relevant payments card, and notwithstanding that any payment or part of a payment in respect of such relevant operations is made by the principal to one or more of the gang or group or to some other person, then such payment or part of a payment shall be deemed, for the purposes of this section and any regulations made thereunder, to have been made by the principal to the individual members of that gang or group in the proportions in which the payment or any amount in respect of the payment is to be divided amongst them.",

and

(*d*) in paragraph (*d*) of subsection (5), by the insertion after "certificates of tax deducted from payments made to subcontractors" of "and the entry thereon of such particulars as may be specified in the regulations".

Provisions supplemental to section 33 of Finance Act, 1986, relating to interest payments by certain deposit takers.

42.—The Finance Act, 1986, is hereby amended by the insertion of the following section after section 33:

"33A.—(1) In this section—

'specified deposit' means a relevant deposit made on or after the 28th day of March, 1996, in respect of which specified interest is payable other than such a deposit—

(*a*) which is held in a special savings account, or

(*b*) in respect of which—

(i) the interest payable is, to any extent, linked to, or determined by, changes in a stock exchange index or any other financial index,

(ii) arrangements were, or were being put, in place by the relevant deposit taker prior to the 28th day of March, 1996, to accept such a deposit, and

(iii) the deposit is made on or before the 7th day of June, 1996;

'specified interest' means interest in respect of a specified deposit other than so much of the amount of that interest as— PT.I S.42

(*a*) is payable annually or at more frequent intervals, or

(*b*) cannot be determined until the date of payment of such interest, notwithstanding that the terms under which the deposit was made are complied with fully.

(2) Subject to the following provisions of this section, specified interest shall, for the purposes of section 33, be deemed—

(*a*) to accrue from day to day, and

(*b*) to be relevant interest paid by the relevant deposit taker in each year of assessment to the extent that—

(i) it is deemed to accrue in that year of assessment, and

(ii) it is not paid in that year of assessment,

and the relevant deposit taker shall account for appropriate tax accordingly:

Provided that—

(*a*) specified interest deemed to so accrue in the period from the 28th day of March, 1996, to the 5th day of April, 1996, shall be deemed to accrue in the year of assessment 1996-97, and

(*b*) the amount of specified interest deemed, to be relevant interest paid by a relevant deposit taker in any year of assessment by virtue of this subsection shall not be less than such amount as would be deductible in respect of interest or any other amount payable on the specified deposit in computing the income of the relevant deposit taker for the year of assessment if the year of assessment were an accounting period of the relevant deposit taker.

(3) Where, apart from that subsection, a relevant deposit taker makes a payment of relevant interest which is, or includes, specified interest it shall—

(*a*) deduct out of the whole of the amount of that payment the appropriate tax in relation to the payment in accordance with section 32, and

(*b*) account for that appropriate tax under section 33,

and the said appropriate tax shall be due and payable by the relevant deposit taker in accordance with section 33:

Provided that so much of the amount of appropriate tax paid by the relevant deposit taker by virtue of subsection (2) as is referable to specified interest included in the said payment of relevant interest shall be set off against any amount of appropriate tax due and payable by it for the year of assessment in which that payment of interest is made or against any amount, or amount on account of, appropriate tax due and payable by it for a year of assessment subsequent to that year (any such set-off

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being effected as far as may be against an amount so due and payable at an earlier date rather than at a later date).

(4) Subsection (2) shall not apply for a year of assessment where, for that year of assessment and all preceding years of assessment—

(*a*) in accordance with the provisions of section 33 (4) of this Act or section 7 (4) of the Finance Act, 1987, as may be appropriate, a relevant deposit taker makes a payment on account of appropriate tax in respect of specified interest as if, in relation to each specified deposit held by it, the references—

(i) in the said section 33 (4), to the period beginning on the 6th day of April, and ending on the 5th day of October in the year of assessment, and

(ii) in the said section 7 (4), where it occurs in the meaning assigned to 'A', to the period of twelve months ending on the 5th day of October in the relevant year,

were a reference to the period beginning on the date on which the specified deposit was made and ending on the 5th day of October in the year of assessment, and

(*b*) the full amount payable on account of appropriate tax by the relevant deposit taker in that year of assessment in accordance with the provisions of section 33 (4) of this Act or section 7 (4) of the Finance Act, 1987, including any amount payable in accordance with the said sections as modified by paragraph (*a*), before set off of any amount on account of appropriate tax paid in an earlier year of assessment, does not exceed the appropriate tax payable by the relevant deposit taker for that year of assessment.".

Amendment of section 51 (application of certain allowances in relation to certain areas and certain expenditure) of Finance Act, 1988.

43.—(1) Section 51 (as amended by the Finance Act, 1995) of the Finance Act, 1988, is hereby amended in paragraph (*a*) in subsection (1) by the substitution for "provided for use for the purposes of trading operations" of "provided by a company for use for the purposes of trading operations carried on by it".

(2) This section shall apply and have effect as respects machinery or plant or an industrial building provided on or after the 23rd day of April, 1996.

CHAPTER IV

Corporation Tax

Reduced rate of corporation tax for certain income.

44.—The Corporation Tax Act, 1976, is hereby amended by the insertion after section 28 of the following section:

"28A.—(1) Notwithstanding section 1, so much of the profits of a company for an accounting period ending on or after the 1st day of April, 1996, that does not exceed the lower of either—

(*a*) the specified amount in relation to the accounting period, or

(*b*) the income of the company for the accounting period, PT.I S.44

shall be charged to corporation tax as if the rate of corporation tax for the financial year 1996 and each subsequent financial year were 30 per cent.

(2) For the purposes of subsection (1) and subject to subsections (3) and (4), the specified amount in relation to an accounting period of a company shall be an amount determined by the formula—

$$£50{,}000 \times \frac{N}{12} \times \frac{1}{A}$$

where—

N is the number of months in the accounting period, and

A is one plus the number of associated companies which the company has in the accounting period.

(3) Where, in the case of a company which has one or more associated companies in an accounting period—

(*a*) the accounting period of the company ends and on a date on which accounting periods of all of the associated companies end, and

(*b*) the company and all of the associated companies jointly elect in writing that this subsection shall apply,

then—

(i) the specified amount under subsection (2) shall be computed as if, in relation to the accounting period, the company and all of the associated companies were a single company (with no associated companies) with an accounting period ending on that date and beginning at the earliest date on which the accounting period of the company, or of any of the associated companies, begins, and

(ii) the specified amount computed under paragraph (i) shall be allocated to the accounting period of the company and to the accounting periods of its associated companies in such manner as is specified in the election, and the amount so allocated to a company shall be deemed to be the specified amount in relation to the accounting period of the company:

Provided that—

(I) the aggregate of amounts allocated under paragraph (ii) for an accounting period shall not exceed the specified amount computed under paragraph (i), and

(II) the amount allocated to an accounting period of a company shall not exceed the amount which would have been the specified amount in relation to the accounting period if the company had no associated companies in the accounting period.

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(4) Where, in the case of a company which has one or more associated companies in an accounting period, the end of the accounting period of the company and the end of an accounting period of each of its associated companies do not coincide—

(*a*) subsection (3) shall apply as respects any period (hereafter in this subsection referred to as a 'relevant period') which falls into the accounting period of the company and an accounting period of each of the associated companies as if the relevant period were an accounting period of the company and of the associated companies,

(*b*) the amount allocated to any company in respect of a relevant period shall be deemed to be the specified amount in relation to that period, and

(*c*) where an amount has been allocated to a company in respect of a relevant period falling into an accounting period of the company, the specified amount for the accounting period of the company shall be the aggregate of—

(i) any specified amounts in relation to relevant periods falling into the accounting period, and

(ii) the amounts which would be the specified amounts in relation to any periods (which are not relevant periods) within the accounting period if each of those periods was treated as an accounting period:

Provided that the specified amount in relation to an accounting period of a company shall not exceed the amount which would be the specified amount in relation to the accounting period if the company had no associated companies in the accounting period.

(5) (*a*) In applying this section to any accounting period of a company, an associated company which—

(i) has not carried on any trade or business at any time in that accounting period or, if an associated company during part only of that accounting period, at any time in that part of that accounting period, or

(ii) has no income within the charge to corporation tax in the State in the accounting period,

shall be disregarded and for the purposes of this section a company is to be treated as an 'associated company' of another at a given time if at that given time one of the two has control of the other or both are under the control of the same person or persons.

(*b*) In this subsection 'control' shall be construed in accordance with section 102.

(6) In determining how many associated companies a company has in an accounting period or whether a company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company

for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period. Pt.I S.44

(7) For the purposes of this section, the income of a company for an accounting period shall be taken to be an amount determined by the formula—

$$I - M$$

where—

I is the amount of the company's profits for the accounting period on which corporation tax falls finally to be borne exclusive of the part of the profits attributed to chargeable gains; and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description, and

M is the amount of the company's income from the sale of goods for the purpose of section 41 of the Finance Act, 1980.

(8) (*a*) A company shall include in the return which is required to be delivered under section 10 of the Finance Act, 1988—

(i) a statement specifying—

(I) the amount of its profits which is to be charged to corporation tax at the rate specified in subsection (1), and

(II) the number of companies which are its associated companies in relation to the accounting period,

and

(ii) a copy of any election made under subsection (3) or (4).

(*b*) A company which has specified an amount under paragraph (*a*) shall not be entitled to alter the amount so specified.

(9) Where an accounting period of a company begins before the 1st day of April, 1996, and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on the 31st day of March, 1996, and the other beginning on the 1st day of April, 1996, and ending on the day on which the accounting period ends, and both parts shall be treated for the purpose of this section as if they were separate accounting periods of the company.

(10) Where any part of the profits of an accounting period of a company are charged to corporation tax in accordance with this section then—

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(*a*) for the purposes of section 41 of the Finance Act, 1980, the relevant corporation tax in relation to the accounting period shall be reduced by an amount determined by the formula—

$$\frac{R}{100} \times S$$

where—

R is the rate per cent. specified in subsection (1) in relation to the accounting period, and

S is the specified amount in relation to the accounting period, and

(*b*) notwithstanding the provisions of subsection (10) (*b*) of section 155 of the Corporation Tax Act, 1976, in determining the income of a company, referred to in the expression 'total income brought into charge to corporation tax', for the accounting period for the purposes of subsection (2) of the said section 41, it shall be the sum determined by the said subsection (10) (*b*) for that period reduced—

(i) in accordance with sections 10A and 16A, and

(ii) by the specified amount in relation to the accounting period.".

Amendment of section 12A (foreign currency: computation of income and chargeable gains) of Corporation Tax Act, 1976.

45.—(1) Section 12A (inserted by the Finance Act, 1994) of the Corporation Tax Act, 1976, is hereby amended—

(*a*) in subsection (1) (*a*) by the insertion after the definition of "relevant contract" of the following definition:

"'relevant tax contract', in relation to an accounting period of a company, means any contract entered into by the company for the purpose of eliminating or reducing the risk of loss being incurred by the company due to a change in the value of money payable in discharge of a liability of the company to corporation tax for the accounting period being a change resulting directly from a change in a rate of exchange of the functional currency (within the meaning of section 14A) of the company for the currency of the State;", and

(*b*) by the addition after subsection (3) of the following subsection:

"(4) Notwithstanding section 13, so much of the amount of any gain or loss arising to a company which carries on a trade in the State in an accounting period as—

(*a*) is attributable to any relevant tax contract in relation to the accounting period,

(*b*) results directly from a change in a rate of exchange, and

(*c*) (i) where it is a gain, does not exceed the amount of the loss which, if the company

had not entered into the relevant tax contract, would have been incurred by the company, and

(ii) where it is a loss, does not exceed the amount of the gain which, if the company had not entered into the relevant tax contract, would have arisen to the company,

due to a change in the value of money payable in discharge of a liability of the company to corporation tax for the accounting period,

shall not be a chargeable gain or an allowable loss, as the case may be, of the company.".

(2) This section shall apply and have effect as respects accounting periods ending on or after the 1st day of April, 1996.

Amendment of section 33A (acquisition expenses) of Corporation Tax Act, 1976.

46.—Section 33A (inserted by the Finance Act, 1992) of the Corporation Tax Act, 1976, is hereby amended in subsection (1) (as amended by the Finance Act, 1993) by the insertion after "Finance Act, 1986," of "or section 42 of the Finance Act, 1994,".

Amendment of section 35A (chargeable gains of life business) of Corporation Tax Act, 1976.

47.—(1) Section 35A (inserted by section 11 (*d*) of the Finance Act, 1993) of the Corporation Tax Act, 1976, is hereby amended by the insertion after subsection (1) of the following:

"(1A) (*a*) Where in an accounting period a company disposes of any securities and in the immediately following accounting period interest becoming payable in respect of the securities is receivable by the company, the gain or loss accruing on the disposal shall be computed as if the price paid by the company for the securities was reduced by the appropriate amount in respect of the interest:

Provided that where for an accounting period the provisions of this paragraph apply so as to reduce the price paid for securities, the amount by which the price paid for the securities is reduced shall be treated as a loss arising, in the immediately following accounting period, from the disposal of the securities.

(*b*) In this subsection—

'the appropriate amount in respect of the interest' means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 11 to the Income Tax Act, 1967, if the company were the first buyer and it carried on a trade to which section 368 (1) of the said Act applies:

Provided that in so determining the appropriate amount in respect of the interest in accordance with the said Schedule 11, paragraph 3 (4) of that Schedule shall apply as if there were deleted 'in the opinion of the Appeals Commissioners';

'securities' has the same meaning as in subsection (1) of section 29 of the Finance Act, 1984.".

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(2) This section shall apply and have effect as respects a disposal on or after the 28th day of March, 1996.

Amendment of section 36 (investment income reserved for policy holders) of Corporation Tax Act, 1976.

48.—(1) Section 36 of the Corporation Tax Act, 1976, is hereby amended in subsection (2) by the insertion of the following proviso:

"Provided that in computing that part of those profits for the purposes of paragraph (*b*), subsection (1A) of section 13 shall apply as if the rate per cent. of capital gains tax specified in subsection (3) of section 3 of the Capital Gains Tax Act, 1975, were the rate per cent. of corporation tax specified in paragraph (*b*) of subsection (1) of section 1.".

(2) This section shall have effect as on and from the 1st day of April, 1995.

Amendment of section 36A (special investment policies) of Corporation Tax Act, 1976.

49.—(1) Section 36A (inserted by the Finance Act, 1993) of the Corporation Tax Act, 1976, is hereby amended in subsection (6) by the insertion of the following proviso:

"Provided that in computing profits for the purposes of this subsection, subsection (1A) of section 13 shall apply as if the rate per cent. of capital gains tax specified in subsection (3) of section 3 of the Capital Gains Tax Act, 1975, were the rate per cent. of corporation tax specified in paragraph (*b*) of subsection (1) of section 1.".

(2) This section shall have effect as on and from the 1st day of April, 1995.

Amendment of section 46B (gains or losses arising by virtue of section 46A) of Corporation Tax Act, 1976.

50.—(1) Section 46B (inserted by the Finance Act, 1992) of the Corporation Tax Act, 1976, is hereby amended by the addition, after subsection (3), of the following subsection:

"(4) Where in an accounting period a company incurs a loss on the disposal (hereafter in this subsection referred to as the 'first-mentioned disposal') of an asset the gain or loss in respect of a deemed disposal of which was included in a net amount to which subsection (1) (*b*) applied for any preceding accounting period, then so much of the allowable loss on the first-mentioned disposal as is equal to the excess of the amount of the loss over the amount which, if section 46A had not been enacted, would have been the allowable loss on the first-mentioned disposal shall be treated for the purposes of this section as an allowable loss which would otherwise accrue on disposals deemed by virtue of section 46A to have been made in the company's accounting period.".

(2) This section shall apply and have effect as respects a disposal on or after the 28th day of March, 1996.

Amendment of section 135 (company ceasing to be a member of a group) of Corporation Tax Act, 1976.

51.—As respects a company ceasing to be a member of a group of companies on or after the 28th day of March, 1996, section 135 of the Corporation Tax Act, 1976, is hereby amended—

(*a*) in subsection (1) by the insertion after "or in consequence of another member of the group being wound up or dissolved" of "where the winding up or dissolution of the member or the other member, as the case may be, is for

bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax", and

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

"(2) Where two or more associated companies (hereafter in this subsection referred to as 'the associated companies') cease to be members of a group at the same time—

(*a*) subsection (1) shall not have effect as respects an acquisition by one from another of the associated companies, and

(*b*) where—

(i) a dividend has been paid or a distribution has been made by one of the associated companies to a company which is not one of the associated companies, and

(ii) the dividend so paid or the distribution so made, has been paid or made, as the case may be, wholly or partly out of profits which derive from the disposal of any asset by one to another of the associated companies,

the amount of the dividend paid or the amount or value of the distribution made, to the extent that it is paid or made, as the case may be, out of those profits, shall be deemed for the purposes of the Capital Gains Tax Act, 1975, to be consideration (in addition to any other consideration) received by the member of the group or former member of the group in respect of a disposal, which disposal gave rise to or was caused by the associated companies ceasing to be members of the group:

Provided that paragraph (*b*) shall not apply to a distribution other than a dividend where a company ceases to be a member of a group of companies before the 23rd day of April, 1996.".

Amendment of section 162 (surcharge on undistributed income of service companies) of Corporation Tax Act, 1976.

52.—(1) Section 162 of the Corporation Tax Act, 1976, is hereby amended in subsection (4)—

(*a*) by the substitution of "15 per cent." for "20 per cent.", and

(*b*) by the insertion in the proviso to that subsection of the following paragraph after paragraph (ii):

"(iii) the surcharge shall apply to so much of the excess calculated under this subsection in respect of an accounting period of a company as is not greater than the excess of the aggregate of the distributable investment income and the distributable estate income of the accounting period over the distributions of the company for the accounting period as

if the reference in this subsection, apart from this paragraph, to 15 per cent. were a reference to 20 per cent.".

(2) This section shall apply and have effect as respects accounting periods ending on or after the 1st day of April, 1996:

Provided that for the purpose of this section where an accounting period begins before the 1st day of April, 1996, and ends on or after that day, it shall be divided into two parts, one beginning on the day on which the accounting period begins and ending on the 31st day of March, 1996, and the other beginning on the 1st day of April, 1996, and ending on the day on which the accounting period ends, and both of the parts shall be treated as if they were separate accounting periods.

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

53.—Section 39A of the Finance Act, 1980, is hereby amended in subsection (6) (*c*) by the insertion after "selling by retail" of "otherwise than by mail order, or other distance selling, which satisfies the requirement of subsection (5) (*b*)".

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

54.—(1) Section 28 of the Finance Act, 1987, is hereby amended by the substitution of the following paragraphs for paragraphs (*a*) and (*b*) of the definition of "qualifying ship":

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

(ii) is the subject of a letting on charter without crew by a lessor not resident in the State,

(*b*) in the case of a vessel to which paragraph (*a*) (i) applies, is registered in the State under Part II of the Mercantile Marine Act, 1955, and, in the case of a vessel to which paragraph (*a*) (ii) applies, is a vessel in respect of which it can be shown that all the requirements of the Merchant Shipping Acts, 1894 to 1993, have been complied with as if it had been a vessel registered under the said Part II,".

(2) Paragraph (*c*) of subsection (4) of section 28 of the Finance Act, 1987, shall not have effect in the case of a letting on charter of a ship referred to therein where the lease in respect of the ship is a lease, the terms of which comply with the provisions of clauses (I) and (II) of subparagraph (i) of paragraph (*b*) of subsection (1) of section 30 of the Finance Act, 1994, and where the lessee produces to the Revenue Commissioners a relevant certificate within the meaning of this section.

(3) (*a*) In this section, a "relevant certificate" means a certificate issued, with the consent of the Minister for Finance, by the Minister for the Marine in relation to the letting on charter of a ship, certifying, on the basis of a business plan and any other information supplied by the lessee to the Minister for the Marine, that the Minister for the Marine is satisfied that the lease is in respect of a ship which—

(i) will result in an upgrading and enhancement of the lessee's fleet leading to improved efficiency and the maintenance of competitiveness,

(ii) (I) has the potential to create a reasonable level of additional sustainable employment and other socio-economic benefits in the State, or

(II) will assist in maintaining or promoting the lessee's trade in the carrying on of a qualifying shipping activity, and the maintenance of a reasonable level of sustainable employment and other socio-economic benefits in the State,

and

(iii) will result in the leasing of a ship which complies with current environmental and safety standards.

(*b*) Before issuing the certificate referred to in *paragraph (a)*, the Minister for the Marine shall be satisfied that the said lease is for *bona fide* commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

(4) In this section "lessee", in relation to a ship provided for leasing, means the person to whom the ship is or is to be leased and includes the successors in title of a lessee.

(5) This section, other than *subsection (1)*, shall apply and have effect as respects a ship, a binding contract in writing for the acquisition or construction of which was concluded on or after the 1st day of July, 1996.

Amendment of section 31 (securitisation of assets) of Finance Act, 1991.

55.—(1) Section 31 of the Finance Act, 1991, is hereby amended—

(*a*) in subsection (1)—

(i) by the substitution for the definition of "qualifying asset" of the following:

"'original lender' and 'originator' have the meanings they have, respectively, in the definition of 'qualifying asset';

'qualifying asset' means—

(*a*) in the case of a qualifying company which is a qualified company (within the meaning of section 39B of the Finance Act, 1980), an asset—

(i) denominated in a foreign currency which consists of, or of an interest in or a contractual right to, any loan, lease, trade or consumer receiveable or other debt or receiveable whether secured or unsecured, and

(ii) of a person (hereafter in this section referred to as the 'originator'), being any

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government, public or local authority, company or other body corporate which—

(I) is not resident in the State, and

(II) (A) is not carrying on a trade in the State through a branch or agency, or

(B) is carrying on a trade in the State through a branch or agency and the asset was not created, acquired or held by or in connection with the branch or agency,

and

(*b*) in any other case, a loan made by a company (hereafter in this section referred to as the 'original lender') on the security of a mortgage of a freehold or leasehold estate or interest in the ordinary course of a trade carried on by it which consists of or includes the lending of money on such security;",

(ii) in the definition of "qualifying company"—

(I) by the insertion after "original lenders" of ", or the originator or originators", and

(II) by the insertion after "any other business" of ", apart from activities which are ancillary to the said business of the management of qualifying assets",

and

(*b*) in subsection (2)—

(i) by the insertion in subparagraph (*b*) (ii) after "the original lender" of "or the originator, as the case may be,", and

(ii) by the insertion in the proviso to paragraph (*b*) after "Provided that" of "in the case of a company referred to in paragraph (*b*) of the definition of 'qualifying asset'.".

(2) This section shall apply and have effect as on and from the 28th day of March, 1996.

Amendment of section 56 (relief for gifts to The Enterprise Trust Ltd.) of Finance Act, 1992.

56.—Section 56 (as amended by section 51 of the Finance Act, 1994) of the Finance Act, 1992, is hereby amended—

(*a*) by the substitution in paragraph (*a*) of subsection (2) of "31st day of December, 1997," for "31st day of December, 1996,", and

(*b*) by the substitution for subsection (3) of the following subsection:

"(3) Subject to subsection (2), where a company (hereafter in this subsection referred to as the 'donor')

makes a gift to which this section applies and claims relief from tax by reference thereto, the net amount thereof shall, for the purposes of corporation tax, be treated as— Pt.I S.56

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

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

incurred by it in the accounting period in which the gift is made:

Provided that in determining the net amount of the gift, the amount or value of any consideration received by the said donor as a result of making the gift, whether received directly or indirectly from the company or any other person, shall be deducted from the amount of the gift.".

Amendment of section 59 (deduction for certain expenditure on research and development) of Finance Act, 1995.

57.—(1) Section 59 of the Finance Act, 1995, is hereby amended in subsection (1)—

(*a*) in paragraph (*a*)—

(i) in the definition of "qualifying group expenditure on research and development" by the substitution for the meaning assigned to "D" of "D is the amount of group base expenditure on research and development",

(ii) in the definition of "relevant period" by the addition of the following proviso:

"Provided that a period shall not be a relevant period if it commences on or after the 1st day of June, 1999;",

and

(*b*) in paragraph (*b*), by the deletion of "and" at the end of the proviso to subparagraph (ii), the insertion of "and" after "expended in the State," in subparagraph (iii) and the substitution for subparagraph (iv) of the following:

"(iv) expenditure on research and development shall not be regarded as having been incurred in a relevant period by a company which is a member of a group if—

(I) in the relevant period the aggregate of amounts received by companies which are members of the group, being amounts paid, directly or indirectly, to the companies by the State or by a person, other than a company which is a member of the group, to enable the company to meet the cost of such expenditure, exceeds £50,000, or

(II) it is expenditure—

(A) approved by Forbairt under any scheme administered by it, and

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(B) which has been or is to be met, to any extent, directly or indirectly by the State or any person other than a company which is a member of the group.".

(2) This section shall apply and have effect as respects any relevant period commencing on or after the 1st day of June, 1996.

Amendment of Chapter VII (advance corporation tax) of Part I of the Finance Act, 1983.

58.—(1) Chapter VII of Part I of the Finance Act, 1983, is hereby amended—

(*a*) in section 44, by the substitution in subsection (5) for "apply for the purposes of that section" of "would apply for the purposes of that section if 'resident in the State' in paragraph (*c*) of the said subsection (6) were deleted", and

(*b*) in subsection (1) of section 47—

(i) by the substitution for clause (I) of paragraph (*a*)(ii) of the following:

"(I) (A) of which the first-mentioned company is a 75 per cent. subsidiary, or

(B) which is a member of a consortium which owns the first-mentioned company,

and",

and

(ii) by the insertion after paragraph (*c*) of the following paragraph:

"(*d*) For the purposes of paragraph (*a*) a company is owned by a consortium if three-quarters or more of the ordinary share capital of the company is beneficially owned between them by five or fewer companies of which none beneficially owns less than one-twentieth of that capital, and those companies are called members of the consortium.".

(2) This section shall apply and have effect as respect dividends paid on or after the 23rd day of April, 1996.

Chapter V

Capital Gains Tax

Amendment of paragraph 11 (disposal of certain assets) of Schedule 4 to Capital Gains Tax Act, 1975.

59.—Paragraph 11 (inserted by the Finance Act, 1982) of Schedule 4 to the Capital Gains Tax Act, 1975, is hereby amended—

(*a*) in subparagraph (8) by the substitution for "the consideration" of "the amount or value of the consideration, in money or money's worth,", and

(*b*) in subparagraph (10A) (inserted by the Finance Act, 1995) by the insertion of the following proviso:

"Provided that this subparagraph shall not apply where there is a disposal of an asset by virtue of a capital sum being derived from the asset under a policy of insurance of the risk of any kind of damage to the asset.".

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Amendment of section 26 (disposal of business or farm on retirement) of Capital Gains Tax Act, 1975.

60.—(1) Section 26 of the Capital Gains Tax Act, 1975, is hereby amended in subsection (6) (*a*) by the insertion in the definition of "family company" of the following proviso:

"Provided that where a company which is a holding company, would not, but for this proviso, be an individual's family company, but would be such a company if the individual had not at any time on or after the 6th day of April, 1987, and before the 6th day of April, 1990, disposed of shares in the company to a child (within the meaning of section 27) of the individual, the company shall be deemed to be the individual's family company;".

(2) This section shall apply and have effect as on and from the 23rd day of April, 1996.

Amendment of section 46 (debts) of Capital Gains Tax Act, 1975.

61.—(1) Section 46 of the Capital Gains Tax Act, 1975, is hereby amended by the addition of the following subsection after subsection (6):

"(7) For the purposes of this section a debenture issued by any company shall be deemed to be a security (within the meaning assigned by paragraph 3 of Schedule 2) if it is issued—

(*a*) on a reorganisation (as provided for in paragraph 2 (1) of Schedule 2) or in pursuance of its allotment on any such reorganisation,

(*b*) in exchange for shares in or debentures of another company where the requirements of paragraph 4 (2) of Schedule 2 are satisfied in relation to the exchange,

(*c*) under any such arrangements as are referred to in paragraph 5 (1) of Schedule 2, or

(*d*) in pursuance of rights attached to any debenture falling within paragraph (*a*), (*b*) or (*c*).".

(2) *Subsection (1)* shall apply and have effect as respects the disposal of a debenture on or after the 28th day of March, 1996.

Amendment of section 27 (relief for individuals on certain reinvestment) of Finance Act, 1993.

62.—(1) Section 27 (as amended by section 74 of the Finance Act, 1995) of the Finance Act, 1993, is hereby amended by the insertion of the following subsection after subsection (2):

"(2A) (*a*) Where an individual who is not entitled to be treated in accordance with subsection (2) solely by reason of not having satisfied the requirements of either or both paragraph (*a*) and (*d*) of subsection (5) of this section, and—

(i) all the other requirements of the section have been satisfied,

(ii) the capital gains tax on the disposal of the original holding has been paid in full, and

(iii) the individual has, throughout a period of 2 years beginning within the specified period,

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been a full-time employee or a full-time director of the qualifying company,

then the individual shall—

(I) be entitled on making a claim in that behalf to such repayment of capital gains tax as would secure that the tax which is ultimately borne by the individual does not exceed the tax which would have been borne by the individual if the said individual had been entitled to be treated in accordance with subsection (2), and

(II) be treated for the purposes of the Capital Gains Tax Acts as if the chargeable gain accruing on the disposal of the original holding did not accrue until he disposes of the qualifying investment, and the proviso to subsection (2) shall have effect for the purposes of this subsection as it has for the purposes of that subsection.

(*b*) Any repayment of tax under this subsection shall not carry interest.".

(2) This section shall apply and have effect as respects disposals made on or after the 6th day of April, 1996.

Amendment of section 66 (reduced rate of capital gains tax on certain disposals of shares by individuals) of Finance Act, 1994.

63.—(1) Section 66 (as amended by section 75 of the Finance Act, 1995) of the Finance Act, 1994, is hereby amended—

(*a*) by the substitution in subsection (6) of "3 years" for "5 years", and

(*b*) by the substitution in paragraph (*a*) and paragraph (*b*) of subsection (8) of "3 years" for "5 years".

(2) (*a*) Subsection (1) shall apply and have effect as respects a disposal effected by an individual of qualifying shares in a qualifying company on or after the 6th day of April, 1996.

(*b*) In this subsection "qualifying company" and "qualifying shares" have, respectively, the same meanings as they have in section 66 of the Finance Act, 1994.

Exemption of certain milk boards and associated companies from capital gains tax.

64.—(1) In this section—

"the Boards" means—

(*a*) the Dublin District Milk Board established under the Dublin District Milk Board Order, 1936 (S.R. & O. No. 254 of 1936), and

(*b*) the Cork District Milk Board established under the Cork District Milk Board Order, 1937 (S.R. & O. No. 91 of 1937);

"the companies" means—

(*a*) the company incorporated on the 19th day of November, 1991, as Dairysan Limited, and

(*b*) the company incorporated on the 14th day of February, 1994, as Glenlee (Cork) Limited; Pt.I S.64

"the Interim Board" means the Interim Board established under the Milk (Regulation of Supply) (Establishment of Interim Board) Order, 1994, (S.I. No. 408 of 1994).

(2) Section 23 of the Capital Gains Tax Act, 1975, shall apply to a gain accruing on the disposal on or after the 5th day of December, 1994, of an asset—

(*a*) by the Boards or the companies to the Interim Board, and

(*b*) by the Interim Board,

as it applies to a gain accruing to a body specified in that section.

Chapter VI

Income Tax and Corporation Tax: Reliefs for Renewal and Improvement of Residential Accommodation on Certain Islands

65.—(1) In this Chapter— Interpretation (*Chapter VI*).

"certificate of reasonable cost" means a certificate granted by the Minister for the Environment for the purposes of *section 66, 67, 68* or *69,* as the case may be, stating that the amount specified in the certificate in relation to the cost of construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the house to which the certificate relates appears to the Minister at the time of the granting of the certificate and on the basis of the information available to the Minister at that time to be reasonable, and section 18 of the Housing (Miscellaneous Provisions) Act, 1979, shall, with any necessary modifications, apply to a certificate of reasonable cost as if it were a certificate of reasonable value;

"certificate of reasonable value" has the meaning assigned to it by section 18 of the Housing (Miscellaneous Provisions) Act, 1979;

"designated island" means any of the following islands, that is to say—

(*a*) in the administrative county of Cork, the islands of Bere, Clear, Dursey, Hare, Long, Sherkin and Whiddy,

(*b*) in the administrative county of Donegal, the islands of Arranmore, Inishbofin, Inishfree and Tory,

(*c*) in the administrative county of Galway, the islands of Inisbofin, Inisheer, Inishmaan and Inishmore,

(*d*) in the administrative county of Limerick, the island of Foynes,

(*e*) in the administrative county of Mayo, the islands of Claggan, Clare, Inishbiggle, Inishcottle, Inishlyre and Inishturk, and

(*f*) in the administrative county of Sligo, the island of Coney;

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

"lease", "lessee", "lessor", "premium" and "rent" have the meanings respectively assigned to them by Chapter VI of Part IV of the Income Tax Act, 1967;

"market value", in relation to a building or house, means the price which the unencumbered fee simple of the building 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 or house:

Provided that the said price shall be reduced by 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 or house is constructed;

"qualifying period" means the period commencing on the 1st day of August, 1996, and ending on the 31st day of July, 1999;

"total floor area" means the total floor area of a house measured in the manner referred to in section 4 (2) (*b*) of the Housing (Miscellaneous Provisions) Act, 1979.

(2) For the purposes of this Chapter references therein to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, any premises shall be construed as including references to the development of the land on which the premises is situated or which is used in the provision of gardens, grounds, access or amenities in relation to the premises and, without prejudice to the generality of the foregoing, as including, in particular—

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

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

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

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

Deduction for certain expenditure on construction of rented residential accommodation.

66.—(1) In this section—

"qualifying lease", in relation to a house, means, subject to *section 70 (1),* a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are, or fall to be treated as, amounts by way of rent for the purposes of Chapter VI of Part IV of the Income Tax Act, 1967, or

(*b*) of payments of the kind mentioned in *paragraph (a)* together with a payment by way of a premium which does not exceed 10 per cent. of the relevant cost of the house;

"qualifying premises" means, subject to *subsections (2), (3) (a)* and *(4)* of *section 70,* a house— PT.I S.66

(*a*) the site of which is on a designated island,

(*b*) which is used solely as a dwelling,

(*c*) the total floor area of which—

(i) is not less than 30 square metres and not more than 125 square metres in the case where the house is a separate self-contained flat or maisonette in a building of two or more storeys, or

(ii) is not less than 35 square metres and not more than 125 square metres in any other case,

(*d*) in respect of which, if it is not a new house (within the meaning of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost, the amount specified in which in respect of the cost of construction of the house to which the certificate relates is not less than the expenditure actually incurred on such construction, and

(*e*) which, without having been used, is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (save for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

"relevant cost", in relation to a house, means, subject to *subsection (3),* an amount equal to the aggregate of—

(*a*) the expenditure incurred on the acquisition of, or of rights in or over, any land on which the house is constructed, and

(*b*) the expenditure actually incurred on the construction of the house;

"relevant period", in relation to a qualifying premises, means the period of 10 years beginning with the date of the first letting of the premises under a qualifying lease.

(2) Where a person, having made a claim in that behalf, proves to have incurred expenditure on the construction of a qualifying premises, such person shall be entitled, in computing, for the purposes of subsection (4) of section 81 of the Income Tax Act, 1967, the amount of a surplus or deficiency in respect of the rent from the said premises, to a deduction of so much (if any) of that expenditure as falls to be treated, under *section 70 (5)* or any of the provisions of this section, as having been incurred by such person in the qualifying period, and all the provisions of Chapter VI of Part IV of the said Act shall apply as if the said deduction were a deduction authorised by the provisions of subsection (5) of the said section 81:

Provided that, where any premium or other sum which is payable, directly or indirectly, under a qualifying lease, or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, or any part of such premium or sum, is not, or is not

treated as, an amount by way of rent for the purposes of the said section 81, the expenditure falling to be treated as having been incurred in the qualifying period on the construction of the qualifying premises to which the qualifying lease relates shall be deemed, for the purposes of this subsection, to be reduced by the lesser of—

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

(*b*) the amount which bears to the amount mentioned in *paragraph (a)* the same proportion as the amount of the expenditure actually incurred on the construction of the qualifying premises which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period bears to the whole of the expenditure incurred on the said construction.

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

(*a*) of the expenditure incurred on the construction of the said building or buildings, and

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

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

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

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

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

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

(5) (*a*) Where the event mentioned in *subsection (4) (b)* occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the said house passes shall be treated, for the purposes of this section, as having incurred in the qualifying period an amount of expenditure on the construction of the said house equal to the amount which, under *section 70 (5)* or any of the provisions of this section, apart from the proviso to *subsection (2)*, the said lessor was treated as having incurred in the qualifying period on the construction of the said house:

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

(*b*) For the purposes of this subsection and *subsection (6)*, the relevant price paid by a person on the sale of a house shall be the amount which bears to the net price paid by such person on that sale the same proportion as the amount of the expenditure actually incurred on the construction of the house which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period bears to the relevant cost in relation to that house.

(6) (*a*) Subject to *paragraph (b)*, where expenditure is incurred on the construction of a house and before the house is used it is sold, the person who buys the house shall be treated, for the purposes of this section, as having incurred in the qualifying period expenditure on the construction of the house equal to the amount of such expenditure which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period or the relevant price paid by such person on the sale, whichever is the lower:

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

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

(7) The provisions of *section 70* shall have effect for the purposes of supplementing this section.

Rented residential accommodation: deduction for expenditure on conversion.

67.—(1) In this section—

"conversion expenditure" means, subject to *subsection (2)*, expenditure incurred on—

(*a*) the conversion into a house of a building—

(i) the site of which is on a designated island, and

(ii) which has not been previously in use as a dwelling,

and

(*b*) the conversion into two or more houses of a building—

(i) the site of which is on a designated island, and

(ii) which, prior to the conversion, had not been in use as a dwelling or had been in use as a single dwelling,

and references in this section and *section 70* to "conversion", "conversion into a house" and "expenditure incurred on conversion" shall be construed accordingly;

"qualifying lease", in relation to a house, means, subject to *section 70 (1)*, a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are, or fall to be treated as, amounts by way of rent for the purposes of Chapter VI of Part IV of the Income Tax Act, 1967, or

(*b*) of payments of the kind mentioned in *paragraph (a)* together with a payment by way of a premium which does not exceed 10 per cent. of the market value of the house at the time the conversion is completed:

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

"qualifying premises" means, subject to *subsections (2), (3) (b)* and *(4)* of *section 70*, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which—

(i) is not less than 30 square metres and not more than 125 square metres in the case where the house is a separate self-contained flat or maisonette in a building of two or more storeys, or

(ii) is not less than 35 square metres and not more than 125 square metres in any other case,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house to which the certificate relates is not less than the expenditure actually incurred on such conversion, and

(*d*) which, without having been used subsequent to the incurring of the expenditure on the conversion, is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (save for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

"relevant period", in relation to a qualifying premises, means the period of 10 years beginning with the date of the first letting of the premises under a qualifying lease. Pr.I S.67

(2) For the purposes of this section, expenditure incurred on conversion of a building shall be deemed to include expenditure incurred, in the course of the conversion, on either or both the following, that is to say:

(*a*) the carrying out of works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or any outoffice appurtenant thereto or usually enjoyed therewith, but shall not be deemed to include—

(i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or

(ii) any expenditure attributable to any part (hereafter in this section referred to as a "non-residential unit") of the building which, upon completion of the conversion, is not a house.

(3) For the purposes of *paragraph (ii)* of *subsection (2)*, where expenditure is attributable to a building in general and not directly to any particular house or non-residential unit comprised in the building upon 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.

(4) Where a person, having made a claim in that behalf, proves to have incurred conversion expenditure in relation to a house which is a qualifying premises, such person shall be entitled, in computing, for the purposes of section (4) of section 81 of the Income Tax Act, 1967, the amount of a surplus or deficiency in respect of the rent from the said premises, to a deduction of so much (if any) of the expenditure as falls to be treated, under *section 70 (5)* or any of the provisions of this section, as having been incurred by such person in the qualifying period and all the provisions of Chapter VI of Part IV of the said Act shall apply as if the said deduction were a deduction authorised by the provisions of subsection (5) of the said section 81:

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

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

(*b*) the amount which bears to the amount mentioned in *paragraph (a)* the same proportion as the amount of the conversion expenditure actually incurred in relation to the qualifying premises which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period bears to the whole of the conversion expenditure incurred in relation to the qualifying premises.

(5) Where a qualifying premises forms part of a building or is one of a number of buildings in a single development, or forms part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the expenditure incurred on the conversion of the said building or buildings for the purposes of determining the conversion expenditure incurred in relation to the qualifying premises.

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

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

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

then the person who, before the occurrence of the event, received or was entitled to receive a deduction under *subsection (4)* in respect of conversion expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence an amount by way of rent from the qualifying premises equal to the amount of the deduction.

(7) Where the event mentioned in *subsection (6) (b)* occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the said house passes shall be treated, for the purposes of this section, as having incurred in the qualifying period an amount of conversion expenditure in relation to the said house equal to the amount of the conversion expenditure which, under *section 70 (5)* or any of the provisions of this section, apart from the proviso to *subsection (4)*, the said lessor was treated as having incurred in the qualifying period in relation to the said house:

Provided that, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the sale, or

(*b*) in case only a part of the conversion expenditure incurred in relation to the house falls to be treated, under *section 70 (5)*, as having been incurred in the qualifying period, the amount which bears to the said net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house.

(8) Where conversion expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who buys the house shall be treated, for the purposes of this section, as having incurred in the qualifying period conversion expenditure in relation to the house equal to—

(*a*) the amount of such expenditure which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period, or

(*b*) (i) the net price paid by such person on the sale, or

(ii) in case only a part of the conversion expenditure incurred in relation to the house falls to be treated, under *section 70 (5)*, as having been incurred in the qualifying period, the amount which bears to the said net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house,

whichever is the lower:

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

(9) This section shall not apply in the case of a conversion unless planning permission in respect of the conversion has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(10) The provisions of *section 70* shall have effect for the purposes of supplementing this section.

Rented residential accommodation: deduction for expenditure on refurbishment.

68.—(1) In this section—

"qualifying lease", in relation to a house, means, subject to *section 70 (1)*, a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(*a*) solely of periodic payments all of which are, or fall to be treated as, amounts by way of rent for the purposes of Chapter VI of Part IV of the Income Tax Act, 1967, or

(*b*) of payments of the kind mentioned in *paragraph (a)* together with a payment by way of a premium—

(i) which is payable on or subsequent to the date of the completion of the refurbishment to which the relevant expenditure relates or which, if payable before that date, is so payable by reason of, or otherwise in connection with, the carrying out of the refurbishment, and

(ii) which does not exceed 10 per cent. of the market value of the house on the date of completion of the refurbishment to which the relevant expenditure relates:

Provided that, in the case of a house which is part of a building and which is not saleable apart from the building of which it is a part, the market value of the house on that date shall, for the purposes of *paragraph (b)*, be taken to be an amount which bears to the market value of the building on that date the same proportion as the total floor area of the house bears to the total floor area of the building;

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"qualifying premises" means, subject to *subsections (2), (3) (b)* and *(4)* of *section 70*, a house—

(*a*) which is used solely as a dwelling,

(*b*) the total floor area of which—

(i) is not less than 30 square metres and not more than 125 square metres in the case where the house is a separate self-contained flat or maisonette in a building of two or more storeys, or

(ii) is not less than 35 square metres and not more than 125 square metres in any other case,

(*c*) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of refurbishment in relation to the house to which the certificate relates is not less than the relevant expenditure actually incurred on such refurbishment, and

(*d*) which, on the date of completion of the refurbishment to which the relevant expenditure relates, is let (or, if it is 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 (save for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

"refurbishment", in relation to a building, means either or both of the following, that is to say:

(*a*) the carrying out of any works of construction, reconstruction, repair or renewal, and

(*b*) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works, or the provision of such facilities, is certified by the Minister for the Environment, in any certificate of reasonable cost granted by that Minister in relation to any house contained in the building, to have been necessary for the purposes of ensuring the suitability as a dwelling of any house in the building and whether or not the number of houses in the building, or the shape or size of any such house, is altered in the course of such refurbishment;

"relevant expenditure" means expenditure incurred on the refurbishment of a specified building, other than expenditure attributable to any part (hereafter in this section referred to as a "non-residential unit") of the building which, upon completion of the refurbishment, is not a house; and, for the purposes of this definition, where expenditure is attributable to the specified building in general (and not directly to any particular house or non-residential unit comprised in the building upon completion of the refurbishment) such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building;

"relevant period", in relation to a qualifying premises, means the period of 10 years beginning with the date of the completion of the refurbishment to which the relevant expenditure relates or, if the premises was not let under a qualifying lease on that date, the period of 10 years beginning with the date of the first such letting after the date of such completion; PT.I S.68

"specified building" means a building—

(*a*) the site of which is on a designated island,

(*b*) in which, prior to the refurbishment to which the relevant expenditure relates, there are one or more houses, and

(*c*) which, upon completion of that refurbishment, contains (whether in addition to any non-residential unit or not) one or more houses.

(2) Where a person, having made a claim in that behalf, proves to have incurred relevant expenditure in relation to a house which is a qualifying premises, such person shall be entitled, in computing for the purposes of subsection (4) of section 81 of the Income Tax Act, 1967, the amount of a surplus or deficiency in respect of the rent from the said premises, to a deduction of so much (if any) of the expenditure as falls to be treated, under *section 70 (5)* or any of the provisions of this section, as having been incurred by such person in the qualifying period and all the provisions of Chapter VI of Part IV of the said Act shall apply as if the said deduction were a deduction authorised by the provisions of subsection (5) of the said section 81:

Provided that, where any premium or other sum which is payable (directly or indirectly), on or subsequent to the date of the completion of the refurbishment to which the relevant expenditure relates (or which, if payable before that date, is so payable by reason of, or otherwise in connection with, the carrying out of the refurbishment), to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, or any part of such premium or sum, is not, or is not treated as, an amount by way of rent for the purposes of the said section 81, the relevant expenditure falling to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed, for the purposes of this subsection, to be reduced by the lesser of—

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

(*b*) the amount which bears to the amount mentioned in *paragraph (a)* the same proportion as the amount of the relevant expenditure actually incurred in relation to the qualifying premises which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period bears to the whole of the relevant expenditure incurred in relation to the qualifying premises.

(3) Where a qualifying premises forms part of a building or is one of a number of buildings in a single development, or forms part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the relevant expenditure incurred on the said building or buildings for the purposes of determining the relevant expenditure incurred in relation to the qualifying premises.

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

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

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

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

(5) Where the event mentioned in *subsection (4) (b)* occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the said house passes shall be treated, for the purposes of this section, as having incurred in the qualifying period an amount of relevant expenditure in relation to the said house equal to the amount of the relevant expenditure which, under *section 70 (5)* or any of the provisions of this section, apart from the proviso to *subsection (2)*, the said lessor was treated as having incurred in the qualifying period in relation to the said house:

Provided that, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(*a*) the net price paid by such person on the sale, or

(*b*) in case only a part of the relevant expenditure incurred in relation to the house falls to be treated, under *section 70 (5)*, as having been incurred in the qualifying period, the amount which bears to the said net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house.

(6) Where relevant expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who buys the house shall be treated, for the purposes of this section, as having incurred in the qualifying period relevant expenditure in relation to the house equal to—

(*a*) the amount of such expenditure which falls to be treated under *section 70 (5)* as having been incurred in the qualifying period, or

(*b*) (i) the net price paid by such person on the sale, or

(ii) in case only a part of the relevant expenditure incurred in relation to the house falls to be treated, under *section 70 (5)*, as having been incurred in the qualifying period, the amount which bears to the said net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house,

whichever is the lower: PT.I S.68

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

(7) This section shall not apply in the case of any refurbishment unless planning permission, in so far as it is required, in respect of the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(8) Expenditure to 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.

(9) The provisions of *section 70* shall have effect for the purposes of supplementing this section.

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

69.—(1) In this section—

"qualifying expenditure", in relation to an individual, means an amount equal to the amount of the expenditure incurred by the individual on the construction or, as the case may be, refurbishment of a qualifying premises which is a qualifying owner-occupied dwelling in relation to the individual after deducting from that amount of expenditure any sum in respect of or by reference to that expenditure, or in respect of or by reference to the qualifying premises or the construction or, as the case may be, refurbishment work in respect of which it was incurred, which the individual has received, or is entitled to receive, directly or indirectly, from the State, any board established by statute or any public or local authority;

"qualifying owner-occupied dwelling", in relation to an individual, means a qualifying premises which is first used, after the qualifying expenditure has been incurred, by such an individual as that individual's only or main residence;

"qualifying premises", in relation to the incurring of qualifying expenditure, means, subject to *subsections (3)* and *(4) (a)* of *section 70*, a house—

(*a*) the site of which is on a designated island,

(*b*) which is used solely as a dwelling,

(*c*) in respect of which, if it is not a new house (within the meaning of section 4 of the Housing (Miscellaneous Provisions) Act, 1979) provided for sale, there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of construction or, as the case may be, refurbishment of the house to which the certificate relates is not less than the expenditure actually incurred on such construction or refurbishment, as the case may be, and

(*d*) the total floor area of which—

(i) is not less than 30 square metres and not more than 125 square metres in the case where the house is a

separate self-contained flat or maisonette in a building of two or more storeys, or

(ii) is not less than 35 square metres and not more than 125 square metres in any other case;

"refurbishment" has the same meaning as in *section 68*.

(2) Subject to *subsection (3)*, where an individual, having made a claim in that behalf, proves to have incurred qualifying expenditure in a year of assessment, the individual shall be entitled, for that year of assessment and for any of the 9 immediately 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 the individual's total income of an amount equal to 5 per cent. of the amount of that expenditure:

Provided that a deduction shall be given under this section in respect of qualifying expenditure only in so far as that expenditure falls to be treated under *section 70 (5)* as having been incurred in the qualifying period.

(3) Where qualifying expenditure in relation to a qualifying premises is incurred by two or more persons, they shall be treated as having incurred the expenditure in the proportions in which they actually bore the expenditure and the expenditure shall be apportioned accordingly.

(4) Section 198 (inserted by section 18 of the Finance Act, 1980) of the Income Tax Act, 1967, is hereby amended, in subsection (1) (*a*), by the insertion of the following subparagraph after subparagraph (xvi) (inserted by section 7 of the Finance Act, 1995):

"(xvii) so far as it flows from relief under *section 69* of the *Finance Act, 1996*, in the proportion in which they incurred the expenditure giving rise to the relief,".

(5) The provisions of *section 70* shall have effect for the purposes of supplementing this section.

Provisions supplementary to *sections 66* to *69*.

70.—(1) A lease shall not be a qualifying lease for the purposes of *section 66*, *67* or *68* if the terms of the lease contain any provisions 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 which is less than that which might be expected to be given at that time for the acquisition of the interest if the negotiations for that acquisition were conducted in the open market at arm's length.

(2) A house shall not be a qualifying premises for the purposes of *section 66*, *67* or *68* if it is occupied as a dwelling by any person who is connected with the person who is entitled, in relation to the expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of, the house, to a deduction under *section 66 (2)*, *67 (4)* or *68 (2)*, as the case may be, and the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(3) (*a*) A house shall not be a qualifying premises for the purposes of *section 66* or, in so far as it applies to expenditure other than expenditure on refurbishment, *section 69* unless it complies with such conditions, if any, as may be determined by the Minister for the Environment from time to time for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards of construction of houses and the provision of water, sewerage and other services therein.

(*b*) A house shall not be a qualifying premises for the purposes of *section 67* or *68* or, in so far as it applies to expenditure on refurbishment, *section 69* unless it complies with such conditions, if any, as may be determined by the Minister for the Environment from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979, in relation to standards for improvements of houses and the provision of water, sewerage and other services therein.

(4) (*a*) A house shall not be a qualifying premises for the purposes of *section 66, 67, 68* or *69* unless persons authorised in writing by the Minister for the Environment for the purposes of those sections are permitted to inspect it at all reasonable times upon production, if so requested by a person affected, of their authorisations.

(*b*) A house shall not be a qualifying premises for the purposes of *section 66, 67* or *68* unless, throughout the period of any qualifying lease related to that premises, the house is used as the sole or main residence of the lessee in relation to that qualifying lease.

(5) (*a*) For the purposes of determining, in relation to any claim under *section 66 (2), 67 (4), 68 (2)* or *69 (2)*, as the case may be, whether and to what extent expenditure incurred on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the premises which was actually carried out during the qualifying period shall be treated as having been incurred during that period.

(*b*) Where, by virtue of *section 65 (2)*, expenditure on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises includes expenditure on the development of any land, *paragraph (a)* shall have effect, with any necessary modifications, as if the references therein to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the qualifying premises were references to the development of such land.

(6) (*a*) For the purposes of *sections 66* and *67*, other than for the purposes mentioned in *subsection (5) (a)*, expenditure incurred on the construction of, or, as the case may be, conversion into, a qualifying premises shall be deemed to

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have been incurred on the date of the first letting of the premises under a qualifying lease.

(*b*) For the purposes of *section 68*, other than for the purposes mentioned in *subsection (5) (a)*, relevant expenditure incurred in relation to the refurbishment of a qualifying premises shall be deemed to have been incurred on the date of the commencement of the relevant period, in relation to the premises, determined as respects the refurbishment to which the relevant expenditure relates.

(*c*) For the purposes of *section 69*, other than for the purposes mentioned in *subsection (5) (a)*, expenditure incurred on the construction or refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred that the premises is in use as a dwelling.

(7) For the purposes of *sections 66*, *67* and *68*, 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.

(8) Paragraph 5 of Schedule 1 to the Capital Gains Tax Act, 1975, shall have effect as if a deduction under *section 66 (2)*, *67 (4)* or *68 (2)*, as the case may be, were a capital allowance and as if any amount by way of rent deemed to have been received by a person under *section 66 (4)*, *67 (6)* or *68 (4)*, as the case may be, were a balancing charge.

(9) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under *section 66*, *67*, *68* or *69*, other than a question on which an appeal lies under section 18 of the Housing (Miscellaneous Provisions) Act, 1979, in like manner as an appeal would lie against an assessment to income tax or corporation tax and the provisions of the Tax Acts relating to appeals shall apply and have effect accordingly.

PART II

Customs & Excise

Chapter I

Vehicle Registration Tax

Interpretation *(Chapter I)*.

71.—In this Chapter "the Act of 1992" means the Finance Act, 1992.

Amendment of section 130 (interpretation) of Act of 1992.

72.—Section 130 of the Act of 1992 is hereby amended—

(*a*) by the insertion in the definition of "category A vehicle" (inserted by the Finance (No. 2) Act, 1992) after "a category D vehicle," of "a crew cab, a motor caravan,",

(*b*) by the substitution of the following definition for the definition of "category B vehicle" (inserted by the Finance (No. 2) Act, 1992):

" 'category B vehicle' means a vehicle (other than a category A vehicle, a category D vehicle, a motor-cycle or a

listed vehicle) which is not more than 3 tonnes unladen weight and which— PT.II S.72

(*a*) has a roofed area to the rear of the driver's seat the floor of which is less than 2 metres in length when measured in such manner as may be approved by the Commissioners:

Provided that, where a motor vehicle is of not more than 1.3 tonnes unladen weight and the roofed area of the vehicle to the rear of the driver's seat has a load volume of more than 2 cubic metres when measured in such manner as the Commissioners may approve, the vehicle shall not be regarded as a category B vehicle,

or

(*b*) is a crew cab, or

(*c*) is a motor caravan;",

(*c*) by the insertion after the definition of "conversion" of the following:

"'crew cab' means a vehicle which is shown to the satisfaction of the Commissioners to be comprised of a cab with seating for a driver and a minimum of three and a maximum of six other persons and a cargo area to the rear of the cab—

(*a*) the floor of which is not less than 2 metres in length when measured in such manner as may be approved by the Commissioners, and

(*b*) which is completely separated from the cab by a partition which is shown to the satisfaction of the Commissioners to be permanently fixed;",

and

(*d*) by the insertion after the definition of "the Minister" of the following:

" 'motor caravan' means a vehicle which is shown to the satisfaction of the Commissioners to be designed, constructed or adapted to provide temporary living accommodation which has an interior height of not less than 1.8 metres when measured in such manner as may be approved by the Commissioners and, in respect of which vehicle, such design, construction or adaptation incorporates the following permanently fitted equipment—

(*a*) a sink unit,

(*b*) cooking equipment of not less than a hob with 2 rings or such other cooking equipment as may be prescribed, and

(*c*) any other equipment or fittings as may be prescribed;".

PT.II
Amendment of section 135B (repayment of amounts in respect of vehicle registration tax in certain cases) of Act of 1992.

73.—Section 135B (inserted by section 98 of the Finance Act, 1995) of the Act of 1992 is hereby amended by the insertion of the following proviso to subsection (1):

"Provided that for the purposes of paragraphs (*c*) and (*e*) any reference to 'the person' may, in the application of those provisions, be construed by the Commissioners as a reference to the person concerned or to that person's spouse.".

Amendment of section 141 (regulations) of Act of 1992.

74.—Section 141 of the Act of 1992 is hereby amended in subsection (2), by the substitution of the following paragraphs for paragraph (*s*) (inserted by the Finance Act, 1995):

"(*s*) make provision (including the prescription of conditions, restrictions and limitations) in relation to subsections (7), (11) and (15) of section 134 and section 135B,

(*t*) prescribe permanently fitted equipment for the purposes of the definition of 'motor caravan' in section 130.".

CHAPTER II

Miscellaneous

Exemption from duty on certain bets.

75.—(1) (*a*) The duty on bets to which section 24 of the Finance Act, 1926, relates shall not be charged or levied on bets entered into on or after the commencement of this subsection where such bets—

(i) are entered into—

(I) during a meeting at which a series of greyhound races is held, and

(II) at the place at which such meeting is held,

and

(ii) are in respect of one or more than one event taking place at a place other than at such meeting.

(*b*) The provisions of *paragraph (a)* shall not apply to bets entered into by any means of telecommunications.

(2) *Subsection (1)* shall come into operation on such day as the Minister for Finance may, by order, appoint.

Reductions of duty on certain gaming machine licences.

76.—Paragraph (*aa*) (inserted by section 74 (2) of the Finance Act, 1980) of subsection (7) of section 43 of the Finance Act, 1975, shall, as respects the grant of gaming machine licences on or after the 1st day of June, 1996, be amended by the substitution for "£60", "£120", "£180" and "£240" (inserted by section 160 (3) (*b*) of the Finance Act, 1992) of "£25", "£50", "£75" and "£100", respectively.

Amendment of section 155 (spirits retailers' on-licences) of Finance Act, 1992.

77.—Section 155 of the Finance Act, 1992, is hereby amended in subsection (1) by the substitution of the following proviso for the proviso to the definition of "excluded business activity":

"Provided that the provision of entertainment or the sale of snack foods, beverages for consumption on the premises or tobacco products shall be regarded as so related and that the provision of meals shall not be regarded as so related.".

PT.II

Amendment of section 92 (tax concessions for disabled drivers, etc.) of Finance Act, 1989.

78.—Section 92 (as amended by section 124 of the Finance Act, 1991) of the Finance Act, 1989, is hereby amended in subsection (1) by the substitution in paragraph (ii) of "10 per cent." for "20 per cent.".

Hydrocarbons and substitute motor fuel.

79.—(1) In this section—

"the Act of 1994" means the Finance Act, 1994;

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

(2) The duty of excise on mineral hydrocarbon light oil imposed by paragraph 11 (1) of the Order of 1975, shall, in lieu of the rate specified in section 84 (1) of the Act of 1994, be charged, levied and paid, as on and from the 24th day of January, 1996, at the rate of £307.65 per 1,000 litres.

(3) For the purposes of the rebate of duty on mineral hydrocarbon light oil provided for in section 56 (3) of the Finance Act, 1988, section 89 of the Finance Act, 1990, shall apply as on and from the 24th day of January, 1996, as if the reference therein to section 40 (1) of the Finance Act, 1989, which, by virtue of section 84 (2) of the Act of 1994, is construed as a reference to section 84 (1) of the Act of 1994, were instead a reference to *subsection (2)* of this section.

(4) The duty of excise on hydrocarbon oil imposed by paragraph 12 (1) of the Order of 1975, shall, in lieu of the rate specified in section 84 (3) of the Act of 1994, be charged, levied and paid, as on and from the 24th day of January, 1996, at the rate of £243.75 per 1,000 litres.

(5) The duty of excise on substitute motor fuel imposed by section 116 (2) of the Finance Act, 1995, shall, in lieu of the rate specified in the said section 116 (2), be charged, levied and paid, as on and from the 24th day of January, 1996, at the rate of £243.75 per 1,000 litres.

(6) With effect from the 1st day of July, 1996, section 42 (2) of the Finance Act, 1976, is hereby amended by the substitution of "£14.30 per 1,000 litres" for "£0.085 per gallon" (inserted by section 150 (3) of the Finance Act, 1992).

Amendment of section 56 (hydrocarbons) of Finance Act, 1988.

80.—(1) Section 56 of the Finance Act, 1988, is hereby amended in subsection (3)—

(*a*) by the insertion in paragraph (*b*) of ", has a research octane number of 95.4 or less" after "paragraph (*a*)", and

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

"(*c*) In paragraph (*b*) 'research octane number' means the research octane number measured in accordance with the American Society for Testing and Materials method D2699-94 or other equivalent method.".

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

PT.II
Amendment of section 74 (deferment of duty on beer) of Finance Act, 1993.

81.—Section 74 of the Finance Act, 1993, is hereby amended in paragraphs (*a*) and (*b*) by the substitution of "payable" for "charged" in both places where it occurs.

Spirits.

82.—(1) In the *Second Schedule* "alcohol" means pure ethyl alcohol.

(2) The duty of excise on spirits imposed by paragraph 4 (2) of the Order of 1975, shall be charged, levied and paid, as on and from the 1st day of July, 1996, at the several rates specified in the *Second Schedule* in lieu of the rate specified in the said paragraph 4 (2) as amended by section 81 (2) of the Finance Act, 1994.

Tobacco products.

83.—(1) In this section and in the *Third Schedule*—

"the Act of 1977" means the Finance (Excise Duty on Tobacco Products) Act, 1977;

"cigarettes", "cigars", "fine-cut tobacco for the rolling of cigarettes" and "other smoking tobacco" have the same meanings as they have in the Act of 1977, as amended by the Imposition of Duties (No. 243) (Excise Duty on Tobacco Products) Order, 1979 (S.I. No. 296 of 1979), and by Regulations 26 and 29 of the European Communities (Customs and Excise) Regulations, 1992 (S.I. No. 394 of 1992).

(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 the Seventh Schedule to the Finance Act, 1995, be charged, levied and paid, as on and from the 24th day of January, 1996, at the several rates specified in the *Third Schedule.*

Amendment of section 7 (ascertainment of retail prices of tobacco products) of Finance (Excise Duty on Tobacco Products) Act, 1977.

84.—Section 7 of the Finance (Excise Duty on Tobacco Products) Act, 1977, is hereby amended in subsection (3) by the substitution of the following paragraph for paragraph (*c*):

"(*c*) A person shall not invite an offer to treat, offer for sale or sell by retail any packet of cigarettes at a price which is higher than—

(i) in the case of cigarettes sold or to be sold by means of a coin-operated vending machine, the nearest multiple of five pence to the price, or

(ii) in all other cases, the price,

being the price on the basis of which that part of the excise duty imposed by section 2 of this Act which is chargeable by reference to the price at which the cigarettes are sold by retail has been charged on the cigarettes in question and any person who so invites, offers or sells shall be guilty of an offence and shall be liable on conviction to an excise penalty of £50 in respect of each such offence.".

Amendment of section 10A (offences in relation to tax stamps) of Finance (Excise Duty on Tobacco Products) Act, 1977.

85.—Section 10A (inserted by the Finance Act, 1994) of the Finance (Excise Duty on Tobacco Products) Act, 1977, is hereby amended—

(*a*) in subsection (1) (as amended by the Finance Act, 1995) by the substitution for "any person who offers for sale or delivery, where such sale or delivery does not take place

under a duty-suspension arrangement, in the State relevant tobacco products otherwise than in a pack or packs to which a tax stamp, on which duty at the appropriate amount has been paid, is affixed in the prescribed manner shall be guilty of an offence" of "any person who in the State invites an offer to treat for, offers for sale, sells or delivers or is in the process of delivering relevant tobacco products otherwise than in a pack or packs to which a tax stamp, on which duty at the appropriate amount has been paid in respect of the tobacco products contained therein, is affixed to each such pack in the prescribed manner shall be guilty of an offence unless such an invitation, offer, sale or delivery takes place under a duty-suspension arrangement,", and

(*b*) in subsection (2), by the insertion after "shall be guilty of an offence" of "and the stamp shall be liable to forfeiture".

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

86.—The Finance (Excise Duties) (Vehicles) Act, 1952, shall as respects licences taken out for periods beginning on or after the 1st day of October, 1996, be amended in Part I of the Schedule thereto by the substitution of the following clause (vii) of subparagraph (*b*) of paragraph 5 (inserted by the Finance Act, 1992):

"(vii)	exceeding 8,000 kilograms but not exceeding 20,000 kilograms	£580 plus £135 for each 1,000 kilograms or part thereof in excess of 8,000 kilograms
(viii)	exceeding 20,000 kilograms	£2,350.".

PART III

VALUE-ADDED TAX

Interpretation (*Part III*).

87.—In this Part—

"the Principal Act" means the Value-Added Tax Act, 1972;

"the Act of 1978" means the Value-Added Tax (Amendment) Act, 1978;

"the Act of 1992" means the Finance Act, 1992;

"the Act of 1993" means the Finance Act, 1993;

"the Act of 1995" means the Finance Act, 1995.

Amendment of section 1 (interpretation) of Principal Act.

88.—Section 1 of the Principal Act is hereby amended in subsection (1)—

(*a*) by the insertion after the definition of "Community" of the following definitions:

" 'contractor', in relation to contract work, means a person who makes or assembles movable goods;

'contract work' means the service of handing over by a contractor to another person of movable goods made or assembled by the contractor from goods entrusted to the contractor by that other person, whether or not the contractor has provided any part of the goods used;",

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(*b*) by the substitution in the definition of "goods" of "used" for "second-hand", and

(*c*) by the substitution in the definition of "importation of goods" of "the State" for "a Member State".

Amendment of section 3 (supply of goods) of Principal Act.

89.—Section 3 of the Principal Act is hereby amended—

(*a*) in subsection (1)—

(i) by the substitution of the following paragraph for paragraph (*aa*) (inserted by the Act of 1995):

"(*aa*) the sale of movable goods pursuant to a contract under which commission is payable on purchase or sale by an agent or auctioneer who concludes agreements in such agent's or auctioneer's own name but on the instructions of, and for the account of, another person,",

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

"(*c*) the handing over by a person (in this paragraph referred to as the developer) to another person of immovable goods which have been developed from goods entrusted to the developer by that other person for the purpose of such development, whether or not the developer has supplied any part of the goods used,",

and

(iii) in paragraph (*g*)—

(I) by the deletion of subparagraph (iii), and

(II) by the substitution of the following subparagraph for subparagraph (iii*a*):

"(iii*a*) the transfer of goods for the purpose of having a service carried out on them:

Provided that the goods which were so transferred by the person are, after being worked upon, returned to that person in the State,",

(*b*) by the deletion of subsection (3) (inserted by the Finance Act, 1982), and

(*c*) by the substitution of the following subsection for subsection (4):

"(4) Where an agent or auctioneer makes a sale of goods in accordance with paragraph (*aa*) of subsection (1) the transfer of those goods to that agent or auctioneer shall be deemed to be a supply of goods to the agent or auctioneer at the time that that agent or auctioneer makes that sale.".

PT.III

Amendment of section 5 (supply of services) of Principal Act.

90.—Section 5 (inserted by the Act of 1978) of the Principal Act is hereby amended—

(*a*) in paragraph (*c*) of subsection (6)—

(i) by the insertion in subparagraph (iii) after "movable goods" of "except where the provisions of subparagraph (iv) of paragraph (*f*) apply", and

(ii) by the insertion in subparagraph (iv) after "movable goods" of ", including contract work, except where the provisions of subparagraph (iv) of paragraph (*f*) apply",

and

(*b*) in paragraph (*f*) of subsection (6), by the insertion of the following subparagraph after subparagraph (iii):

"(iv) valuation of or work on movable goods, including contract work, in cases where the goods are dispatched or transported out of the Member State where the valuation or work was physically carried out.".

Amendment of section 10B (special scheme for auctioneers) of Principal Act.

91.—Section 10B (inserted by the Act of 1995) of the Principal Act is hereby amended in subsection (9) by the substitution of "auction scheme goods" for "tangible movable goods".

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

92.—Section 11 of the Principal Act is hereby amended—

(*a*) in subsection (1) (inserted by the Act of 1992) by the substitution in paragraph (*f*) of "2.8 per cent." for "2.5 per cent." (inserted by the Act of 1993), and

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

"(1AB) Notwithstanding subsection (1), the rate at which tax is chargeable on a supply of contract work shall be the rate that would be chargeable if that supply of services were a supply of the goods being handed over by the contractor to the person to whom that supply is made:

Provided that this subsection shall not apply to a supply of contract work in the circumstances specified in paragraph (xvi) of the Second Schedule.".

Amendment of section 12 (deductions for tax borne or paid) of Principal Act.

93.—Section 12 of the Principal Act is hereby amended—

(*a*) in paragraph (*a*) of subsection (1) by the insertion of the following subparagraph after subparagraph (i):

"(i*a*) the amount in respect of tax indicated separately on a document issued during the period in accordance with section 17(1AA) in respect of a supply of goods to him.",

and

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(*b*) in paragraph (*a*) of subsection (3) by the deletion of "or" (inserted by the Finance Act, 1987) at the end of subparagraph (iii) and by the insertion of the following subparagraph after subparagraph (iv):

"(iv*a*) the procurement of a supply of contract work where such supply consists of the handing over of goods to which this paragraph applies.".

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

94.—Section 12A (inserted by the Act of 1978) of the Principal Act is hereby amended in subsection (1) by the substitution of "2.8 per cent." for "2.5 per cent." (inserted by the Act of 1993).

Amendment of section 13A (supplies to, and intra-Community acquisitions and imports by, certain taxable persons) of Principal Act.

95.—Section 13A (inserted by the Act of 1993) of the Principal Act is hereby amended in subsection (1) by the insertion after "Second Schedule" in the definition of "qualifying person" of ", supplies of contract work where the place of supply is deemed to be a Member State other than the State and supplies of contract work made in accordance with paragraph (xvi) of the Second Schedule".

Amendment of section 15 (charge of tax on imported goods) of Principal Act.

96.—Section 15 (inserted by the Act of 1978) of the Principal Act is hereby amended in subsection (3) by the insertion after "duties" of ", expenses resulting from the transport of the goods to another place of destination within the Community, if that destination is known at the time of the importation,".

Amendment of section 17 (invoices) of Principal Act.

97.—Section 17 of the Principal Act is hereby amended—

(*a*) by the addition of the following proviso to subsection (1):

"Provided that, where goods are supplied in accordance with the terms of paragraph (*b*) of subsection (1) of section 3, and the ownership of those goods is transferred to a person supplying, in respect of those goods, financial services of the kind specified in subparagraph (*e*) of paragraph (i) of the First Schedule, the taxable person making the supply of the goods in question shall issue the invoice to the person supplying the said financial services in lieu of the taxable person to whom the supply of the goods is made and that invoice shall include the name and address of the person supplying those financial services.",

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

"(1AA) Where the proviso to subsection (1) applies, the person supplying the financial services in question shall issue a document to the person to whom the supply of goods is made and shall indicate thereon—

(*a*) the amount which is set out in respect of tax on the invoice issued to the person supplying the financial services in accordance with the said proviso in respect of that supply of goods, and

(*b*) such other particulars as are specified by regulations in respect of an invoice issued in accordance with subsection (1).

(1AB) Where any person issues a document for the purposes of subsection (1AA) that person shall, in respect of the document, be treated as a taxable person for the purposes of sections 16 and 18.",

(*c*) by the insertion of the following subsection after subsection (3A):

"(3AB) Where any person supplying financial services receives a credit note issued under the terms of paragraph (*b*) of subsection (3) in respect of a supply of goods to which the proviso to subsection (1) applies, that person shall, within seven days of receipt of such credit note, issue to the person to whom the goods in question were supplied, a document corresponding to that credit note indicating such particulars as are specified by regulations in respect of the issue of such credit notes, and the amount which the taxable person to whom the goods were supplied may deduct under section 12 in respect of that supply shall be reduced by the amount in respect of tax shown in the document.",

(*d*) by the insertion of the following subsection after subsection (5):

"(5A) If any person issues a document for the purposes of subsection (1AA) in relation to a supply of goods indicating a greater amount in respect of tax than the amount of tax invoiced in accordance with the proviso to subsection (1) in relation to that supply, that person shall, in relation to that excess, be deemed for the purposes of this Act to be a taxable person and a person to whom subsection (5) applies, and that excess shall be deemed to be tax.",

and

(*e*) by the insertion of the following subsection after subsection (7):

"(7A) A document required to be issued in accordance with subsection (1AA) shall be issued within twenty-two days next following the month of supply of the goods.".

Amendment of Second Schedule to Principal Act.

98.—The Second Schedule (inserted by the Finance Act of 1976) to the Principal Act is hereby amended—

(*a*) by the deletion in paragraph (iii) (as amended by the Act of 1992) after "goods to" of "or from",

(*b*) by the substitution of the following paragraph for paragraph (xvi) (inserted by the Act of 1992):

"(xvi) the supply of services consisting of work on movable goods acquired or imported for the purpose of undergoing such work within the Community and dispatched or transported out of the Community by or on behalf of the person providing the services",

and

(*c*) by the insertion of the following paragraph after paragraph (xvi) (inserted by *paragraph (b)*):

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"(xvi*a*) the supply of transport services relating to the importation of goods where the value of such services is included in the taxable amount in accordance with section 15 (3);".

Amendment of Sixth Schedule to Principal Act.

99.—The Sixth Schedule (inserted by the Act of 1992) to the Principal Act is hereby amended in subparagraph (*b*) of paragraph (xviii) by the insertion after "other than" of "contract work or".

Revocation (*Part III*).

100.—The European Communities (Value-Added Tax) Regulations, 1995 (S.I. No. 363 of 1995), shall be deemed to have been revoked with effect from the 1st day of January, 1996.

PART IV

Stamp Duties

Chapter I

Special provisions relating to uncertificated securities

Interpretation (*Chapter I*).

101.—(1) (*a*) In this Chapter—

"the Act of 1891" means the Stamp Act, 1891;

"certificated securities" means securities other than uncertificated securities;

"Commissioners" means the Revenue Commissioners;

"market maker" means a person who—

(i) holds himself or herself out at all normal times in compliance with the rules of the Irish Stock Exchange Limited or the London Stock Exchange Limited as willing to buy and sell securities at a price specified by him or her, and

(ii) is recognised as doing so by the Irish Stock Exchange Limited or the London Stock Exchange Limited;

"member firm" means a member firm of the Irish Stock Exchange Limited, or of the London Stock Exchange Limited, which is not acting in the ordinary course of business as a market maker in securities of the kind concerned;

"relevant period" means the period between the 1st day of September, 1996, and the 31st day of March, 1997, or any subsequent period of 6 months ending on the 30th day of September or the 31st day of March;

"securities" means any stocks or marketable securities;

"the Stamp Acts" means the Stamp Act, 1891, and every other enactment relating to stamp duty;

"uncertificated securities" means any securities, title to which is, by virtue of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (S.I. No. 68 of 1996), transferable by means of a relevant system.

(*b*) In this Chapter, "generate", "instruction", "operator", "operator-instruction", "relevant system" and "system-member" have the same meanings, respectively, as they have in the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996.

(*c*) In this Chapter, references to title to securities include any legal or equitable interest in securities.

(2) This Chapter applies in relation to instruments executed on or after the 1st day of September, 1996.

Operator-instruction deemed to be an instrument of conveyance or transfer.

102.—(1) Where a transfer of title to securities through a relevant system is effected by an operator-instruction, that operator-instruction shall, for all purposes of the Stamp Acts, be deemed to be an executed instrument of conveyance or transfer of such securities and the date of execution shall be taken to be the date the operator-instruction is generated.

(2) Where an operator-instruction is generated in connection with the transfer through a relevant system of an equitable interest in securities, that transfer shall be deemed for the purposes of *subsection (1)* to have been effected by that operator-instruction.

(3) Where no operator-instruction is generated in connection with the transfer through a relevant system of an equitable interest in securities, that transfer shall, for the purposes of this Chapter, be deemed to have been effected by an operator-instruction generated on the date of the transfer.

Rate of duty.

103.—Where an operator-instruction is, by virtue of the provisions of *section 102*, chargeable with stamp duty under or by reference to the Heading "CONVEYANCE or TRANSFER on sale of any stocks or marketable securities" in the First Schedule to the Act of 1891, the rate at which the duty is charged under that Heading shall be the rate of 1 per cent. of the consideration for the sale to which that operator-instruction gives effect:

Provided that—

(*a*) where the transfer operates as a voluntary disposition *inter vivos*, the reference in this section to the amount or value of the consideration for the sale shall, in relation to the duty so chargeable, be construed as a reference to the value of the securities transferred,

(*b*) where the calculation results in an amount which is not a multiple of one penny, the amount so calculated shall be rounded to the nearest penny, and any half of a penny shall be rounded up to the next whole penny.

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Application and adaptation of Stamp Acts.

104.—In relation to a charge for stamp duty arising by virtue of *section 102*—

(*a*) the definition of "accountable person" in subsection (1) of section 122 of the Act of 1891 shall be construed as if the reference, in the Table to that definition, to the vendee or transferee were a reference to the transferee,

(*b*) notwithstanding section 1 (3) of the Act of 1891 the operator-instruction which is charged to stamp duty by virtue of *section 102* shall not be required to be stamped and, accordingly—

(i) any duty so charged shall be due and payable and shall be paid to the Commissioners on the date on which that operator-instruction is generated, and

(ii) that operator-instruction shall for the purposes of section 1 (4) of that Act and notwithstanding section 74 (2) of the Finance (1909-10) Act, 1910, be deemed to be duly stamped with the proper stamp duty when such duty and any penalty relating to such duty has been paid to the Commissioners:

Provided that, where an agreement referred to in *section 105* is in force between the Commissioners and an operator, any duty paid in respect of that operator-instruction in accordance with such agreement shall be deemed to have been paid to the Commissioners on the date on which it became due and payable,

(*c*) subject to *paragraph (d)*, section 15 of the Act of 1891 shall apply with the modification that the penalties imposed for not duly stamping the operator-instruction, which is charged to stamp duty by virtue of *section 102* within a particular period of the date of first execution, shall be imposed for non-payment of the stamp duty within that period, and with any other necessary modifications,

(*d*) sections 2, 3, 5, 6, 11, 12, 14, 15 (4) and 17 of the Act of 1891 shall not apply,

(*e*) (i) if at any time it appears that for any reason no duty, or insufficient duty, has been paid to the Commissioners, they shall make an assessment of such amount of duty or additional duty as, to the best of their knowledge, information and belief, ought to be charged, levied and paid and the accountable person shall be liable for the payment of the duty so assessed,

(ii) if at any time it appears that for any reason an assessment is incorrect, the Commissioners shall make such other assessment as they consider appropriate, which assessment shall be substituted for the first-mentioned assessment,

(iii) section 13 of the Act of 1891 shall apply to an assessment under this paragraph as if it were an assessment mentioned in that section,

(*f*) any reliefs or exemptions from stamp duty which are conditional on an instrument being stamped in accordance with section 12 of the Act of 1891 with a particular stamp denoting either that it is not chargeable with any duty or that it is duly stamped shall apply notwithstanding such condition not having been complied with. Pt.IV S.104

Collection and payment of duty.

105.—The Commissioners may enter into an agreement with an operator, in such form and on such terms and conditions as they think fit, in relation to the collection of stamp duty and the payment of such duty to the Commissioners.

Exemptions.

106.—(1) *Section 102* shall not apply or have effect—

(*a*) to the extent that it would give rise to a charge to stamp duty under any of the following Headings in the First Schedule to the Act of 1891—

(i) "CONVEYANCE or TRANSFER of any kind not hereinbefore described.",

(ii) "DEED of any kind whatsoever, not described in this schedule.", or

(iii) "MARKETABLE SECURITY.",

(*b*) in respect of a transfer of title to securities to a purchaser in completion of a contract for sale to the extent to which the interest transferred has, subsequent to that transfer, been re-transferred in completion of a separate contract for sale made by that purchaser prior to that transfer to that purchaser:

Provided that both contracts were due for completion on the same day and are in fact completed within 25 days after the making of whichever of those contracts was earlier in priority.

(2) Stamp duty shall not be chargeable under or by reference to any Heading in the First Schedule to the Act of 1891 other than the Heading "CONVEYANCE or TRANSFER on sale of any stocks or marketable securities" on an instrument effecting a transfer of securities if the transferee is a system-member and the instrument is in a form which will, in accordance with the rules of the system, enable certificated securities to be converted into uncertificated securities so that title to them may become transferable by means of the relevant system.

(3) Stamp duty shall not be chargeable on any instrument of transfer whereby any securities upon the sale thereof are transferred to a market maker acting in the ordinary course of business as a market maker in securities of the kind concerned or to a person acting as nominee of such market maker.

Relief for member firms.

107.—(1) Stamp duty shall not be chargeable on any instrument of transfer whereby any securities upon the sale thereof are transferred to a member firm acting on its own behalf in the ordinary course of that member firm's business or to a nominee of such member firm:

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Provided that if and to the extent that the member firm does not transfer those securities to a *bona fide* purchaser before the expiration of the period of one month from the date of the transfer, hereinafter in this section referred to as "the specified period", the member firm shall pay to the Commissioners within 14 days after the expiration of the specified period the amount of *ad valorem* duty which would have been chargeable on the transfer if this section had not been enacted.

(2) If any member firm fails to pay any sum due to the Commissioners under the proviso to *subsection (1)*, that sum, together with interest thereon at the rate of 1.25 per cent. per month or part of a month from the first day after the expiration of the specified period to the date of payment of that sum and, by way of further penalty, a sum equal to 1 per cent. of the duty for each day the duty remains unpaid, shall be recoverable from the member firm as a debt due to the Minister for Finance for the benefit of the Central Fund.

(3) Where the provisions of *subsection (1)* apply in relation to a transfer of securities to a member firm, the member firm shall within 30 days of the end of the relevant period within which the transfer is made deliver to the Commissioners a statement in writing or in such other manner as the Commissioners may agree to in writing—

(*a*) showing in respect of each such transfer—

(i) full details in relation to the type, nominal value, description and amount of the securities comprised in the transfer;

(ii) what part, if any, of the securities comprised in the transfer has been transferred by the member firm to a *bona fide* purchaser within the specified period and what part of the securities has not been so transferred;

(iii) the date of the transfer and, if any part of the securities has been transferred to a *bona fide* purchaser within the specified period, the date on which that part was so transferred;

(iv) the amount of stamp duty (if any) payable by virtue of the proviso to *subsection (1)* and the date of payment;

(*b*) certifying in respect of each such transfer that—

(i) the member firm was acting on its own behalf in the ordinary course of that member firm's business, and

(ii) any securities transferred in respect of which the stamp duty has not been paid were transferred on sale to a *bona fide* purchaser within the period of one month after the date of the transfer,

and shall produce such further evidence by way of statutory declaration or otherwise in relation to the matters aforesaid as the Commissioners require.

(4) A member firm which fails to deliver a statement within the period specified in *subsection (3)*, shall be liable to a fine of £1,000.

(5) Section 42 of the Finance Act, 1920, section 35 of the Finance Act, 1935, and section 32 of the Finance Act, 1961, are hereby repealed. Pt.IV S.107

Obligations of system-members.

108.—(1) Where an instruction is entered or is caused to be entered in a relevant system by a system-member, and the effect of that instruction is that no stamp duty is calculated by the relevant system, that system-member shall retain evidence in legible written form, or readily convertible into such a form, for a period of 3 years from the date of such instruction, in sufficient detail to establish that the related operator-instruction is not chargeable with stamp duty, and the system-member shall make any such evidence available to the Commissioners upon request.

(2) A system-member who fails to comply with the provisions of *subsection (1)* shall be liable to a fine of £1,000.

(3) Where a system-member fraudulently or negligently enters or causes to be entered an incorrect instruction in a relevant system and such incorrect instruction gives rise to an underpayment of stamp duty, or results in a claim for exemption from duty to which there is no entitlement, that system-member shall incur a fine of £1,000 together with the amount, or twice the amount in the case of fraud, of the difference between the duty so paid, if any, and the duty which would have been payable if the instruction had been entered correctly:

Provided that a system-member shall be deemed to have acted negligently for the purposes of *subsection (3)* if it comes to the system-member's notice, or it would have come to the system-member's notice if the system-member had taken reasonable care, that an incorrect instruction has resulted in an underpayment of stamp duty, unless the system-member notifies the Commissioners accordingly, in writing, without unreasonable delay.

(4) An incorrect instruction to which *subsection (3)* applies shall be deemed to be the production of an incorrect document for the purposes of section 94 (2) (*d*) of the Finance Act, 1983.

Overpayment of duty.

109.—(1) Where on a claim it is proved to the satisfaction of the Commissioners that there has been an overpayment of duty in relation to a charge to duty by virtue of *section 102*, the overpayment shall be repaid.

(2) A claim under this section shall—

(*a*) be made within a period of 6 years beginning on the date on which the payment was made,

(*b*) set out the grounds on which the repayment is claimed,

(*c*) contain a computation of the amount of the repayment claimed,

(*d*) if so required by the Commissioners, be supported by such documentation as may be necessary to prove the entitlement to a repayment of the amount claimed, and

(*e*) if the claim arises by virtue of the operation of *section 106 (1) (b)*—

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(i) it shall be made on a form prescribed by the Commissioners, and

(ii) it shall not be made to the Commissioners before the 21st day of the month following the month in which the overpayment of duty arose.

(3) Where the claimant is not resident in the State and has no branch or agency in the State the Commissioners may require the claimant, as a condition for obtaining a repayment, to appoint and maintain a tax representative in the State who shall be personally liable to the Commissioners for any loss of duty arising out of an incorrect claim.

(4) A person shall not be a tax representative under this section unless that person—

(*a*) has a business establishment in the State, and

(*b*) is approved by the Commissioners.

Regulations.

110.—(1) The Commissioners may make such regulations as seem to them to be necessary for the purpose of giving effect to this Chapter and of enabling them to discharge their functions in relation to administration, assessment, collection, recovery and repayment thereunder.

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

Amendment of section 150 (stock borrowing) of Finance Act, 1995.

111.—Section 150 of the Finance Act, 1995, is hereby amended—

(*a*) in subsection (1)—

(i) by the insertion of the following definition before the definition of "equivalent stock":

"'collateral stock', in relation to a stock borrowing, means stock which is transferred to the lender by way of security for the performance of the undertaking referred to in paragraph (*b*) of the definition of 'stock borrowing';",

(ii) by the substitution of the following definition for the definition of "stock borrower":

"'stock borrower' means a member firm or a market maker within the meaning of *paragraph (a)* of *subsection (1)* of *section 101* of the *Finance Act, 1996*, or a nominee of such member firm or market maker;",

and

(iii) by the substitution of the words "broker and dealer or market maker" for the words "broker or dealer" in paragraph (*a*) of the definition of "stock borrowing",

and

(*b*) by the substitution of the following subsection for subsection (2): Pt.IV S.111

"(2) Stamp duty shall not be chargeable—

(*a*) on a stock borrowing or on a stock return, or

(*b*) on the transfer of collateral stock to the lender.".

Chapter II

Miscellaneous

Removal of stamp duty on memorandum and articles of association of company.

112.—(1) The Companies Act, 1963, is hereby amended—

(*a*) in section 7 by the deletion of the words ", must bear the same stamp as if it were a deed,", and

(*b*) in section 14 by the deletion of paragraph (*c*).

(2) This section shall have effect with respect to instruments executed on or after the date of the passing of this Act.

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

113.—(1) Section 49 of the Finance Act, 1969, is hereby amended by the substitution of the following subsection for subsection (2B) (inserted by the Finance Act, 1984):

"(2B) (*a*) Notwithstanding subsections (2) and (2A) of this section, subsection (1) of this section shall have effect in relation to an instrument if, but (apart from the said subsections (2) and (2A)) only if the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that—

(i) the instrument gives effect to the purchase of a house upon the erection thereof, and

(ii) on the date of execution of the instrument there exists a valid floor area certificate in respect of the said house.

(*b*) In this subsection, "floor area certificate" means a certificate issued by the Minister for the Environment certifying that that Minister is satisfied, on the basis of the information available to that Minister at the time of so certifying, that the total floor area of the said house measured in the manner referred to in section 4 (2) (*b*) of the Housing (Miscellaneous Provisions) Act, 1979, does not or will not exceed the maximum total floor area standing specified in regulations under the said section 4 (2) (*b*) and is not or will not be less than the minimum total floor area standing so specified.

(*c*) The furnishing of an incorrect statement within the meaning of paragraph (*a*) of this subsection shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 94 of the Finance Act, 1983.".

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(2) This section shall have effect with respect to instruments executed on or after the date of the passing of this Act.

Amendment of section 203 (stamp duty in respect of cash cards) of Finance Act, 1992.

114.—As respects cash cards (within the meaning assigned by subsection (1) of section 203 of the Finance Act, 1992), which are—

(*a*) included in any statement referred to in subsection (2) of the said section 203, and

(*b*) valid at any time after the 1st day of February, 1996,

subsection (3) of that section is hereby amended by the substitution of "£5" for "£2" where the due date for the delivery of the statement is after the 1st day of February, 1996.

Amendment of section 207 (exemption from stamp duty of certain financial services instruments) of Finance Act, 1992.

115.—Section 207 of the Finance Act, 1992, is hereby amended in subsection (1)—

(*a*) by the deletion of the words ", which are dealt in and quoted on a recognised stock exchange," in the definition of "depositary", and

(*b*) by the deletion of the words "which are dealt in and quoted on a recognised stock exchange" in paragraph (*a*) (i) of the definition of "American depositary receipt".

Amendment of section 144 (relief from stamp duty in the case of reconstructions or amalgamations of companies) of Finance Act, 1995.

116.—Section 144 of the Finance Act, 1995, is hereby amended by the substitution of the following subsection for subsection (2):

"(2) Section 31 of the Finance Act, 1965, shall apply notwithstanding—

(*a*) that the transferee company referred to in that section is incorporated in another Member State of the European Union, or

(*b*) that the particular existing company referred to in that section is incorporated outside the State:

Provided that any such company incorporated outside the State corresponds, under the law of the place where it is incorporated, to a transferee company or particular existing company, as the case may be, within the meaning of that section and subject to any necessary modifications for the purpose of so corresponding, all the other provisions of that section are met.".

Exemption from stamp duty of designated body.

117.—(1) Stamp duty shall not be chargeable on—

(*a*) the transfer, sale, or assignment of mortgages by a housing authority to a designated body, or

(*b*) the transfer of securities issued by a designated body.

(2) In this section "designated body" and "housing authority" have the same meanings, respectively, as they have in subsection (1) of section 1 of the Securitisation (Proceeds of Certain Mortgages) Act, 1995.

(3) Section 15 of the Securitisation (Proceeds of Certain Mortgages) Act, 1995, is hereby repealed.

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Exemption from stamp duty of Community trade marks and international trade marks.

118.—(1) In this section "Community trade mark" and "international trade mark" have the same meanings, respectively, as they have in section 56 and section 58 of the Trade Marks Act, 1996.

(2) Stamp duty shall not be chargeable on an instrument relating to a Community trade mark or an international trade mark, or an application for any such mark, by reason only of the fact that such a mark has legal effect in the State.

Repeals (*Part IV*).

119.—Each enactment mentioned in *column (2)* of the *Fourth Schedule* to this Act is hereby repealed to the extent specified in *column (3)* of that Schedule.

PART V

Capital Acquisitions Tax

Interpretation (*Part V*).

120.—In this Part "the Principal Act" means the Capital Acquisitions Tax Act, 1976.

Amendment of section 16 (market value of certain shares in private trading companies) of Principal Act.

121.—As respects gifts and inheritances taken on or after the 28th day of March, 1996, section 16 of the Principal Act is hereby amended in subsection (2) by the substitution of the following definition for the definition of "private company":

"'private company' means a body corporate (wherever incorporated) which—

(*a*) is under the control of not more than five persons, and

(*b*) is not a company which would fall within section 95 of the Corporation Tax Act, 1976, if the words 'private company' were substituted for the words 'close company' in subsection (1) of that section, and if the words 'if beneficially held by a company which is not a private company' were substituted for the words of paragraph (*a*) of subsection (4) of that section.".

Amendment of section 19 (value of agricultural property) of Principal Act.

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

(*a*) by the substitution of the following definition for the definition of "agricultural value" in subsection (1) (inserted by the Finance Act, 1994):

"'agricultural value' means the market value of agricultural property reduced by 75 per cent. of that value:

Provided that the agricultural value of agricultural property, other than farm machinery, livestock and bloodstock, comprised in a gift shall not be greater than it would have been if *section 122* of the *Finance Act, 1996*, had not been enacted;",

(*b*) by the deletion of subsection (4) (inserted by the Finance Act, 1994), and

(*c*) in paragraph (*a*) (inserted by the Finance Act, 1994) of subsection (5)—

(i) by the substitution of "ten years" for "six years" in subparagraph (i),

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(ii) by the substitution of the following proviso for the proviso to that paragraph:

"Provided that—

(I) this paragraph shall not have effect where the donee or successor dies before the property is sold or compulsorily acquired;

(II) where the event which causes the agricultural value to cease to be applicable occurs after the expiration of the period of six years commencing on the date of the gift or the date of the inheritance, the tax chargeable in respect of the gift or inheritance shall not be greater than it would have been if *section 122* of the *Finance Act, 1996*, had not been enacted.".

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 23rd day of January, 1996.

Exemption relating to qualifying expenses of incapacitated persons.

123.—(1) The Principal Act is hereby amended by the insertion of the following section after section 59:

"59A.—(1) A gift or inheritance which is taken exclusively for the purpose of discharging qualifying expenses of an individual who is permanently incapacitated by reason of physical or mental infirmity shall, to the extent that the Commissioners are satisfied that it has been or will be applied to such purpose, be exempt from tax and shall not be taken into account in computing tax.

(2) In this section 'qualifying expenses' means expenses relating to medical care including the cost of maintenance in connection with such medical care.".

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 28th day of March, 1996.

Amendment of section 118 (application of section 60 (relief in respect of certain policies of insurance) of Finance Act, 1985) of Finance Act, 1991.

124.—(1) Section 118 of the Finance Act, 1991, is hereby amended by the deletion of "under a disposition made by the spouse of the insured where the inheritance is taken".

(2) This section shall apply to inheritances taken on or after the 28th day of March, 1996.

Amendment of section 126 (business relief) of Finance Act, 1994.

125.—(1) Section 126 (inserted by the Finance Act, 1995) of the Finance Act, 1994, is hereby amended by the substitution of "75 per cent." for "50 per cent.".

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 23rd day of January, 1996.

Amendment of section 127 (relevant business property) of Finance Act, 1994.

126.—(1) Section 127 of the Finance Act, 1994, is hereby amended by the substitution of the following paragraph for paragraph (*c*) of subsection (1):

"(*c*) unquoted shares in or securities of a company incorporated in the State which is, on the valuation date

(after the taking of the gift or inheritance), a company controlled by the donee or successor within the meaning of section 16 of the Principal Act;". Pt.V S.126

(2) This section shall have effect in relation to gifts or inheritances taken on or after the 28th day of March, 1996.

Amendment of section 135 (withdrawal of relief) of Finance Act, 1994.

127.—(1) Section 135 of the Finance Act, 1994, is hereby amended—

(*a*) by the substitution of "ten years" for "six years" in subsection (1) (as amended by the Finance Act, 1995), and

(*b*) by the substitution of the following proviso for the proviso (inserted by the Finance Act, 1995) to subsection (2):

"Provided that—

(i) any land, building, machinery or plant which are comprised in the gift or inheritance and which qualify as relevant business property by virtue of section 127 (1) (*e*) shall, together with any similar property which has replaced such property, continue to be relevant business property for the purposes of this section for so long as they are used for the purposes of the business concerned,

(ii) this section shall not have effect where the donee or successor dies before the event which would otherwise cause the reduction to cease to be applicable,

(iii) where the event which causes the reduction to cease to be applicable occurs after the expiration of the period of six years commencing on the valuation date, then only one-third of that reduction shall cease to be applicable.".

(2) This section shall apply to gifts or inheritances taken on or after the 23rd day of January, 1996.

Amendment of section 146 (certificate relating to registration of title based on possession) of Finance Act, 1994.

128.—Section 146 of the Finance Act, 1994, is hereby amended by the insertion of the following subsections after subsection (4):

"(4A) In subsection (1), the reference to a certificate issued by the Commissioners shall be construed as including a reference to a certificate to which subsection (4B) relates, and the provisions of subsection (1) shall be construed accordingly.

(4B) (*a*) A certificate to which this subsection relates is a certificate by the solicitor for the applicant for registration in which it is certified, on a form provided by the Commissioners, that the solicitor—

(i) is satisfied—

(I) in a case where the applicant is a statutory authority within the definition of 'statutory authority' contained in section 3(1) of the Act of

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1964, that the market value of the relevant property at the time of the application does not exceed £100,000, or

(II) in any other case, that—

(A) the area of the relevant property does not exceed five hectares, and

(B) the market value of the relevant property at the time of the application does not exceed £15,000,

and

(ii) having investigated the title to the relevant property, has no reason to believe that the relevant particulars, in so far as relating to the relevant property at any time during the relevant period, are particulars which related at that time to significant other real property, that is to say, real property which, if combined with the relevant property for the purposes of subparagraph (i), would cause a limit which applies to the relevant property by virtue of that subparagraph to be exceeded.

(*b*) In this subsection—

'the relevant particulars' means the particulars of title to the relevant property which are required to be produced to the Registrar for the purposes of paragraph 2 of Form 5 of the Schedule of Forms referred to in the definition of 'Forms' contained in rule 2(1) of the Rules of 1972;

'the relevant property' means the property in respect of which the application for registration is being made.

(4C) Notwithstanding the provisions of subsection (4B), a certificate by the solicitor for the applicant for registration shall be a certificate to which subsection (4B) relates if it certifies, on a form provided by the Commissioners, that the solicitor is satisfied that—

(*a*) the area of the property in respect of which the application for registration is being made does not exceed 500 square metres,

(*b*) the market value of the said property at the time of the application does not exceed £2,000, and

(*c*) the application is not part of a series of related applications covering a single piece of property the total area of which exceeds 500 square metres or the market value of which at the time of the application exceeds £2,000.".

Amendment of section 164 (payment of tax on certain assets by instalments) of Finance Act, 1995.

129.—(1) Section 164 of the Finance Act, 1995, is hereby amended—

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

"(*a*) section 43 of the Principal Act shall apply to that

whole or part of the tax notwithstanding subsection (3) or (4) of that section: Pt.V S.129

Provided that where all or any part of that agricultural property or relevant business property, or any property which directly or indirectly replaces such property, is sold or compulsorily acquired and, by virtue of subsection (5) of section 19 of the Principal Act or section 135 of the Finance Act, 1994, that sale or compulsory acquisition causes the taxable value of such a taxable gift or taxable inheritance to be increased, or would cause such increase if subsection (2) of section 19 of the Principal Act or section 126 of the Finance Act, 1994, applied, all unpaid instalments referable to the property sold or compulsorily acquired shall, unless the interest of the donee or successor is a limited interest, be paid on completion of that sale or compulsory acquisition and, if not so paid, shall be tax in arrear,

and",

and

(*b*) by the insertion of the following subsection after subsection (2):

"(2A) For the purposes of this section reference to an overdue instalment in the proviso to paragraph (*b*) of subsection (2) is a reference to an instalment which is overdue for the purposes of section 43 (as it applies to this section) of the Principal Act or for the purposes of the proviso to paragraph (*a*) of the said subsection (2).".

(2) This section shall apply in relation to gifts or inheritances taken on or after the 8th day of February, 1995.

PART VI

Miscellaneous Pre-Consolidation Provisions

Chapter I

Income Tax, Corporation Tax and Capital Gains Tax

Information.

130.—The Revenue Commissioners or any of their officers may, for any purpose in connection with the assessment and collection of income tax, corporation tax or capital gains tax, make use of or produce in evidence, any returns, correspondence, schedules, accounts, statements or other documents or information to which the Revenue Commissioners or any of their officers have or has had or may have lawful access for the purposes of the Acts relating to any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

Connected persons.

131.—(1) In this section—

"close company" has the same meaning as in sections 94 and 95 of the Corporation Tax Act, 1976;

"company" has the same meaning as in section 1 (5) of the Corporation Tax Act, 1976;

"control" shall be construed in accordance with section 102 of the Corporation Tax Act, 1976;

"relative" means brother, sister, ancestor or lineal descendant:

Provided that, for the purposes of the Capital Gains Tax Acts, it shall, in addition, mean uncle, aunt, niece or nephew;

"settlement" includes any disposition, trust, covenant, agreement or arrangement, and any transfer of money or other property or of any right to money or other property;

"settlor", in relation to a settlement, means any person by whom the settlement was made; and a person shall be deemed for the purposes of this section to have made a settlement if the person has made or entered into the settlement directly or indirectly and, in particular (but without prejudice to the generality of the preceding words), if the person has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

(2) For the purposes of the Tax Acts and the Capital Gains Tax Acts, unless the context otherwise requires, any question whether a person is connected with another shall be determined in accordance with the provisions of *subsections (3)* to *(8)* (any provision that one person is connected with another being taken to mean that they are connected with one another).

(3) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.

(4) A person, in his or her capacity as trustee of a settlement, is connected with—

(*a*) any individual who in relation to the settlement is a settlor,

(*b*) any person who is connected with such an individual, and

(*c*) a body corporate which is deemed to be connected with that settlement, and a body corporate shall be deemed to be connected with a settlement in any accounting period or, as the case may be, year of assessment if, at any time in that period or year, as the case may be, it is a close company (or only not a close company because it is not resident in the State) and the participators then include the trustees of or a beneficiary under the settlement.

(5) Except in relation to acquisitions or disposals of partnership assets pursuant to *bona fide* commercial arrangements, a person is connected with any person with whom he or she is in partnership, and with the husband or wife or a relative of any individual with whom he or she is in partnership.

(6) A company is connected with another company—

(*a*) if the same person has control of both, or a person has control of one and persons connected with him or her, or he

or she and persons connected with him or her, have control of the other, or PT.VI S.131

(*b*) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he or she is connected.

(7) A company is connected with another person if that person has control of it or if that person and persons connected with him or her together have control of it.

(8) Any two or more persons acting together to secure or exercise control of, or to acquire a holding in, a company shall be treated in relation to that company as connected with one another and with any person acting on the direction of any of them to secure or exercise control of, or to acquire a holding in, the company.

(9) (*a*) All the provisions of the Tax Acts and the Capital Gains Tax Acts which, for the purpose of determining whether a person is connected with another, refer to or apply the provisions of section 16 (3) of the Finance (Miscellaneous Provisions) Act, 1968, section 33 (7) of the Capital Gains Tax Act, 1975, or section 157 of the Corporation Tax Act, 1976, as appropriate, shall, notwithstanding *paragraph (b)*, be construed for that purpose as referring to or applying the provisions of this section.

(*b*) The said sections 16 (3), 33 (7) and 157 shall cease to apply and have effect.

Pre-consolidation amendments and repeals.

132.—(1) The enactments specified in *Part I* of the *Fifth Schedule* shall have effect subject to the amendments specified in that Schedule, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the Tax Acts and the Capital Gains Tax Acts.

(2) Each enactment specified in *column (2)* of *Part II* of the *Fifth Schedule* is hereby repealed to the extent specified in *column (3)* of *Part II* of that Schedule.

(3) The amendments and repeals in each Part of the *Fifth Schedule* are subject to the provisions of this Act and, in particular, to the provision made at the end of each Part of that Schedule.

CHAPTER II

Income Tax and Corporation Tax

Farming: Provisions Relating to Relief in respect of Increase in Stock Values

Interpretation.

133.—In this Chapter—

"accounting period", in relation to a person, means—

(*a*) where the person is a company, an accounting period determined in accordance with the provisions of section 9 of the Corporation Tax Act, 1976, or

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(*b*) where the person is not a company, a period of one year ending on the date to which the accounts of the person are usually made up:

Provided that where accounts have not been made up or where accounts have been made up for a greater or lesser period than one year, the accounting period shall be such period not exceeding one year as the Revenue Commissioners may determine;

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

"company" has the same meaning as in section 1(5) of the Corporation Tax Act, 1976;

"farming" has the same meaning as in Chapter II of Part I of the Finance Act, 1974;

"period of account", in relation to a person, means a period for which the accounts of the person have been made up;

"person" means a person who is resident in the State and not resident elsewhere and, unless the contrary intention appears, includes a company;

"specified return date for the chargeable period" has the same meaning as in section 9 of the Finance Act, 1988;

"tax" means income tax or corporation tax, as appropriate;

"trading income", in relation to the trade of farming, means—

(*a*) where the person is a company, the income from the trade computed in accordance with the rules applicable to Case I of Schedule D, or

(*b*) in the case of any other person, the profits or gains of the trade computed in accordance with the rules applicable to Case I of Schedule D;

"trading stock", in relation to the trade of farming, has the same meaning as in section 62 of the Income Tax Act, 1967, and in determining the value of a person's trading stock at any time for the purposes of a deduction under *section 134* to the extent that, at or before that time, any payments on account have been received by the person in respect of any trading stock, the value of that stock shall be reduced accordingly.

Deduction for increase in stock values.

134.—(1) Subject to the provisions of this Chapter, if—

(*a*) a person carries on, in an accounting period, the trade of farming in respect of which the person is within the charge to tax under Case I of Schedule D, and

(*b*) the value of the person's trading stock of that trade at the end of the accounting period (in this Chapter referred to as its "closing stock value") exceeds the value of its trading stock of that trade at the beginning of the accounting period (in this Chapter referred to as its "opening stock value"),

the person shall, in the computation for the purposes of tax of its trading income, be entitled to a deduction under this section equal to 25 per cent. of the amount of that excess as if the deduction were a trading expense incurred in the accounting period, and the amount of that excess is referred to in this Chapter as the person's "increase in stock value":

Provided that, where the person is a company, the amount of the deduction in an accounting period shall not exceed the amount of the company's trading income for that period after all reductions of income for that period by virtue of sections 16 and 18 of the Corporation Tax Act, 1976, and after all deductions and additions for that period by virtue of section 14 of that Act and before any deduction allowed by virtue of this section:

Provided also that, where the person is a company, where a deduction allowed by virtue of this section in computing the company's income from the trade of farming for an accounting period has effect for an accounting period (in this subsection referred to as "the relevant period"), the company shall not be entitled to—

(*a*) a deduction under section 14 of the Corporation Tax Act, 1976, for any accounting period later than the relevant period in respect of any allowance treated as a trading loss of the trade before the commencement of the relevant period, or

(*b*) a set-off of a loss under section 16 of the Corporation Tax Act, 1976, for any accounting period later than the relevant period in respect of a loss sustained in the trade before the commencement of the relevant period, or

(*c*) a set-off of a loss under section 18 of the Corporation Tax Act, 1976, for any accounting period earlier than the relevant period in respect of a loss sustained in the trade.

(2) In the case of a person other than a company, where a deduction allowed by virtue of this section in computing the person's trading profits of the trade of farming for an accounting period has effect for a year of assessment (in this subsection referred to as "the relevant year")—

(*a*) the person shall not be entitled to relief—

(i) under section 309 of the Income Tax Act, 1967, for any year of assessment later than the relevant year in respect of a loss sustained in the trade before the commencement of the relevant year, or

(ii) under section 311 of the Income Tax Act, 1967, for any year of assessment earlier than the relevant year in respect of a loss sustained in the trade,

(*b*) the provisions of section 241 (3) of the Income Tax Act, 1967, or of that section as applied by any other provision of the Income Tax Acts, shall not apply as respects a capital allowance or part of a capital allowance which is, or is deemed to be, all or part of a capital allowance for the relevant year and to which full effect has not been given in that year owing to there being no profits or gains chargeable for that year or an insufficiency of profits or gains chargeable for that year,

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(*c*) the provisions of section 318 of the Income Tax Act, 1967, shall not apply to the capital allowances or any part thereof for the relevant year, and

(*d*) the amount of any deduction given under this section shall not exceed the amount of the person's trading income from the trade of farming for the relevant year before any deduction allowed by virtue of this section.

(3) (*a*) A deduction shall not be allowed under the provisions of this section in computing a company's trading income for any accounting period which ends on or after the 6th day of April, 1997.

(*b*) Any deduction allowed by virtue of this section in computing the profits or gains of the trade of farming for an accounting period of a person other than a company shall not have effect for any purpose of the Income Tax Acts for any year of assessment later than the year 1996-97.

(4) A person shall not be entitled to a deduction under this section for any chargeable period unless a written claim for such a deduction is made on or before the specified return date for the chargeable period.

(5) The provisions of this section shall apply to a trade of farming carried on by a partnership as they apply to a trade of farming carried on by a person.

Special provision for qualifying farmers.

135.—(1) In the case of a person other than a company who is a qualifying farmer—

(*a*) *subsection (1)* of *section 134* shall apply and have effect as if "100 per cent." were substituted for "25 per cent.";

(*b*) *paragraph (a)* shall apply and have effect in computing a person's trading profits for an accounting period in the case of a person who becomes a qualifying farmer—

(i) on or after the 6th day of April, 1993, and before the 6th day of April, 1995, for the year of assessment 1995-96 and for each of the three immediately succeeding years of assessment, or

(ii) on or after the 6th day of April, 1995, and before the 6th day of April, 1997, for the year of assessment in which the person becomes a qualifying farmer and for each of the three immediately succeeding years of assessment.

(2) For the purposes of *subsection (1)*, "qualifying farmer" means an individual who—

(*a*) in the year 1993-94 or any subsequent year of assessment, first qualifies for grant aid under the Scheme of Installation Aid for Young Farmers operated by the Department of Agriculture, Food and Forestry under Council Regulation (EEC) No. 797/85 of 12 March 1985*, or that Regulation as may be revised from time to time, or

*O.J. No. L93 of 30.3.1985, p. 6.

(*b*) (i) first becomes chargeable to income tax under Case I of Schedule D in respect of profits or gains from the trade of farming for the said year 1993-94 or any subsequent year of assessment, and Pt.VI S.135

(ii) has not attained the age of 35 years at the commencement of the year of assessment referred to in *subparagraph (i)*, and

(iii) at any time in the year of assessment so referred to—

(I) is the holder of a qualification set out in the Sixth Schedule to the Finance Act, 1994, and, in the case of a qualification set out in subparagraph (*c*), (*d*), (*e*), (*f*) or (*g*) of paragraph 3, or in paragraph 4, of the said Schedule, is also the holder of a certificate issued by Teagasc — The Agricultural and Food Development Authority (referred to subsequently in this paragraph as "Teagasc") certifying that such person has satisfactorily attended a course of training in farm management, the aggregate duration of which exceeded 80 hours, or

(II) (A) has satisfactorily attended full-time a course at a third-level institution in any discipline for a period of not less than 2 years' duration, and

(B) is the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours,

or

(III) if born before the 1st day of January, 1968, that such person is the holder of a certificate issued by Teagasc certifying that such person has satisfactorily attended a course of training in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours:

Provided that where Teagasc certifies that any other qualification corresponds to a qualification which is set out in the said Sixth Schedule, that other qualification shall, for the purposes of this subsection, be treated as if it were the corresponding qualification so set out.

Compulsory disposals of livestock.

136.—(1) In this section—

"excess" means the excess of the relevant amount over the value of the stock to which this section applies at the beginning of the accounting period in which the disposal takes place;

"relevant amount" means the amount of any income received by a person as a result, or in consequence, of a disposal of stock to which this section applies;

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"stock to which this section applies" means all cattle forming part of the trading stock of the trade of farming where such cattle are compulsorily disposed of on or after the 6th day of April, 1993, under any statute relating to the eradication or control of diseases in livestock:

Provided that, for the purposes of this section, all cattle shall be regarded as compulsorily disposed of where, in the case of any disease eradication scheme relating to the eradication or control of brucellosis in livestock, all eligible cattle for the purposes of any such scheme, together with such other cattle as are required to be disposed of, are disposed of.

(2) Where stock to which this section applies is disposed of in an accounting period by a person carrying on the trade of farming, the person may elect to have the excess treated in accordance with the following provisions of this section and such election shall be made in such form and contain such information as the Revenue Commissioners may require.

(3) Notwithstanding any other provision of the Tax Acts, where a person elects in accordance with the provisions of *subsection (2)*, the excess shall be disregarded as respects the accounting period in which it arises and shall instead be treated for the purposes of the said Acts as arising in equal instalments in each of the two immediately succeeding accounting periods:

Provided that, notwithstanding the foregoing provisions of this subsection, where the person further elects, the excess shall be treated as arising in such equal instalments in the accounting period in which it arises and in the immediately succeeding accounting period.

(4) Where, not later than the end of the succeeding accounting period or succeeding accounting periods, as appropriate, referred to in *subsection (3)*, the person incurs expenditure on the replacement of cattle in an amount not less than the relevant amount, the person shall be deemed to be entitled to a deduction, in respect of the amount of the excess, under *section 134*, that section being applied as if "100 per cent." were substituted for "25 per cent.":

Provided that, where the expenditure incurred on replacement as aforesaid is less than the relevant amount, the deduction in each of the two accounting periods referred to in *subsection (3)*, or in the proviso thereto, under the said *section 134* shall be reduced to an amount that bears the same proportion to the excess as the expenditure incurred in the said two accounting periods bears to the relevant amount.

(5) An election under this section shall be made by notice in writing made on or before the specified return date for the chargeable period in which the stock to which this section applies is compulsorily disposed of.

Supplementary provisions.

137.—(1) (*a*) Where a person has acquired or disposed of trading stock otherwise than in the normal conduct of the trade of farming, the person shall be treated, for the purposes of this Chapter, as having, at the beginning or end of the relevant period of account, trading stock of such value as appears to the inspector (or, on appeal, to the Appeal Commissioners) to be reasonable and just having regard to all the circumstances of the case.

(*b*) Where the value of a person's trading stock at the beginning of a period of account is not calculated on the basis used for the calculation of the value of the trading stock at the end of that period, the value of the trading stock at the beginning of that period shall, for the purposes of this Chapter, be treated as being what it would have been if it had been calculated on that basis.

(2) (*a*) In any case where a person's accounting period does not coincide with a period of account or with two or more consecutive periods of account, the person's increase in stock value in the accounting period shall be determined for the purposes of *section 134* not in accordance with *subsection (1)* of that section but by reference to a period (in this section referred to as "the reference period") determined in accordance with this subsection.

(*b*) In any case where the beginning of a person's accounting period does not coincide with the beginning of a period of account, the reference period shall begin at the beginning of the period of account which is current at the beginning of the person's accounting period.

(*c*) In any case where the end of the person's accounting period does not coincide with the end of a period of account, the reference period shall end at the end of the period of account which is current at the end of the person's accounting period.

(*d*) In any case where *paragraph (b)* does not apply, the reference period shall begin at the beginning of the person's accounting period and, in any case where *paragraph (c)* does not apply, the reference period shall end at the end of the person's accounting period.

(3) (*a*) In any case where *subsection (2)(a)* applies, a person's increase in stock value in the accounting period shall be determined for the purposes of *section 134* by the formula

$$\frac{A\,(C - O)}{N}$$

where—

A is the number of months in the person's accounting period;

C is the value of the person's trading stock at the end of the reference period;

O is the value of the person's trading stock at the beginning of the reference period; and

N is the number of months in the reference period.

(*b*) In any case where a person's increase in stock value in an accounting period falls to be determined in accordance with *paragraph (a)*, then, in *section 134* and in the following provisions of this section, any reference to the person's closing stock value shall be construed as a reference to the value of the person's trading stock at the end of the reference period.

(4) (*a*) A person shall not be entitled to a deduction under *section 134* for an accounting period if that accounting period ends by virtue of the person—

(i) ceasing to carry on the trade of farming; or

(ii) ceasing to be resident in the State; or

(iii) ceasing to be within the charge to tax under Case I of Schedule D in respect of that trade.

(*b*) In any case where a person's increase in stock value in an accounting period falls to be determined in accordance with *subsection (3) (a)*, *paragraph (a)* shall have effect as if the reference therein to the person's accounting period were a reference to any of the accounting periods comprised in the person's reference period.

(5) (*a*) Subject to the following provisions of this subsection, where a person claims a deduction under *section 134* and, immediately before the beginning of an accounting period, the person was not carrying on the trade to which the claim relates, then, unless—

(i) the person acquired the initial trading stock of that trade on a sale or transfer from another person on that person's ceasing to carry on that trade, and

(ii) the stock so acquired is, or is included in, the person's trading stock as valued at the beginning of the accounting period,

the person shall be treated for the purposes of *section 134* and the preceding provisions of this section as having at the beginning of the accounting period trading stock of such value as appears to the inspector to be reasonable and just.

(*b*) In determining, for the purposes specified in *paragraph (a)*, the value of trading stock to be attributed to a person at the beginning of the accounting period, the inspector shall have regard to all the relevant circumstances of the case and, in particular—

(i) to movements during the person's accounting period in the costs of items of a kind comprised in the person's trading stock during that period; and

(ii) to changes during that period in the volume of the trade in question carried on by the person.

(*c*) The Appeal Commissioners dealing with an appeal from the decision of an inspector on a claim in a case where, in accordance with *paragraph (a)*, the inspector has attributed to a person at the beginning of an accounting period trading stock of a particular value shall, in hearing and determining the appeal, in so far as it relates to the value of the trading stock to be so attributed, determine such value as appears to them to be reasonable and just, having regard to those factors to which the inspector is required to have regard by virtue of *paragraph (b)*.

(*d*) In any case where *subsection (2) (a)* applies to a person's accounting period, for any reference in *paragraphs (a)* to *(c)* to that accounting period there shall be substituted a reference to the reference period. Pt.VI S.137

(6) In any case where a person's accounting period or reference period consists of a number of complete months and a fraction of a month, any reference in the preceding provisions of this section to the number of months in the period shall be construed as including that fraction of a month (and in any case where any such period is less than one month any such reference shall be construed as a reference to that fraction of a month of which the period consists).

PART VII

MISCELLANEOUS

Capital Services Redemption Account.

138.—(1) In this section—

"the 1995 amending section" means section 171 of the Finance Act, 1995;

"capital services" has the same meaning as it has in the principal section;

"the forty-sixth additional annuity" means the sum charged on the Central Fund under *subsection (4)*;

"the principal section" means section 22 of the Finance Act, 1950.

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of December, 1996, subsection (4) of the 1995 amending section shall have effect with the substitution of "£75,535,862" for "£74,427,949".

(3) Subsection (6) of the 1995 amending section shall have effect with the substitution of "£57,148,703" for "£57,207,000".

(4) A sum of £83,599,421 to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of December, 1996.

(5) The forty-sixth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine.

(6) Any amount of the forty-sixth additional annuity, not exceeding £64,256,400 in any financial year, may be applied towards defraying the interest on the public debt.

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

Pt.VII
Amendment of section 176 (relief for donations of heritage items) of Finance Act, 1995.

139.—As respects each year (being the calendar year 1996 and subsequent calendar years) section 176 of the Finance Act, 1995, is hereby amended, in subsection (2), by the substitution in subparagraph (ii) of paragraph (*c*) of "£750,000" for "£500,000", and the said subparagraph (ii), as so amended, is set out in the Table to this section.

TABLE

(ii) exceeds an amount (which shall not be less than £75,000) determined by the formula—

£750,000 — M

where M is an amount (which may be nil) equal to the market value at the valuation date of the heritage item (if any) or the aggregate of the market values at the respective valuation dates of all the heritage items (if any), as the case may be, in respect of which a determination or determinations, as the case may be, under this subsection has been made by the selection committee in any one calendar year and not revoked in that year.

Payment of certain expenses of licensing authorities in respect of collection of certain excise duties.

140.—(1) In respect of the specified duties collected by any licensing authority, that authority may, before payment into the Exchequer of such duties, deduct from moneys so collected, an amount calculated in accordance with directions in writing issued by the Minister for the Environment, with the consent of the Minister for Finance, in respect of expenses properly incurred by the licensing authority solely in respect of the collection of such duties.

(2) The expenses referred to in *subsection (1)* may include expenses properly incurred by the licensing authority solely in respect of the collection of the specified duties during any period prior to the 1st day of January, 1996, and which have not been met by payments under subsection (2) (*a*) of section 50 of the Finance Act, 1978.

(3) (*a*) (i) Subsection (4) of section 1 of the Roads Act, 1920, is hereby amended by the insertion after "shall" in "shall be paid into the Exchequer" of ", subject to *section 140* of the *Finance Act, 1996*,".

(ii) Article 6 (1) of the Road Vehicles (Registration and Licensing) Order, 1958 (S.I. No. 15 of 1958), is hereby amended by the insertion after "shall" in "Every licensing authority shall forthwith pay the proceeds of the said duties and all other sums received by them which are payable into the Exchequer under the Roads Act, 1920," of ", subject to *section 140* of the *Finance Act, 1996*,".

(*b*) Subsection (2) of section 4 of the Act of 1952 is hereby amended by the insertion after "shall" in "shall be paid by that authority into the Exchequer" of ", subject to *section 140* of the *Finance Act, 1996*,".

(4) Subsection (2) (*a*) of section 50 of the Finance Act, 1978, shall not apply in the case of expenses—

(*a*) incurred by a licensing authority in respect of the collection of the specified duties, and

(*b*) which have been deducted in accordance with this section.

(5) In this section—

"the Act of 1952" means the Finance (Excise Duties) (Vehicles) Act, 1952;

"licensing authority" means the council of a county, or the corporation of a county borough, which grants licences under section 1 of the Act of 1952 or driving licences or provisional licences under Part III of the Road Traffic Act, 1961; Pt.VII S.140

"the specified duties" means the duties imposed—

(*a*) by section 1 (1) of the Roads Act, 1920, as applied by section 3 (1) of the Act of 1952 and as chargeable, leviable and payable in accordance with section 1 (1) of the Act of 1952, or

(*b*) by section 4 (1A) (inserted by the Finance Act, 1961, and amended by the Finance Act, 1989) of the Act of 1952 and as chargeable, leviable and payable in accordance with that section.

(6) This section shall be deemed to have come into operation on the 1st day of January, 1996, but without prejudice to payments (if any) before the passing of this Act under subsection (2) (*a*) of section 50 of the Finance Act, 1978.

Amendment of section 4 (casual trading licences) of Casual Trading Act, 1995.

141.—Section 4 of the Casual Trading Act, 1995, is hereby amended by the insertion of the following subsection after subsection (2):

"(2A) (*a*) For the purposes of the assessment, charge, collection and recovery of any tax or duty placed under the care and management of the Revenue Commissioners—

(i) a casual trading licence shall not be granted unless the application for a casual trading licence contains the applicant's tax reference number, and

(ii) the local authority concerned shall, upon the grant of a casual trading licence, or as soon as may be thereafter, notify the Revenue Commissioners in writing of the name, address and tax reference number of the person to whom the licence was granted and the conditions (if any) contained in the licence including the duration thereof.

(*b*) In this subsection, 'tax reference number', in relation to an applicant for a casual trading licence, means—

(i) in the case of an applicant who is an individual, the identifying number, known as the Revenue and Social Insurance (RSI) Number, and

(ii) in the case of any other applicant, the identifying or reference number,

stated on any correspondence, including a notice of determination of tax-free allowances, return of income or return of profits form or notice of assessment issued to the applicant by an inspector of taxes appointed under section 161 of the Income Tax Act, 1967.".

Care and management of taxes and duties.

142.—All taxes and duties (except the excise duties on mechanically propelled vehicles imposed by *section 86*) imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

Pr.VII
Short title, construction and commencement.

143.—(1) This Act may be cited as the Finance Act, 1996.

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

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

(4) *Part III* shall be construed together with the Value-Added Tax Acts, 1972 to 1995, and may be cited together therewith as the Value-Added Tax Acts, 1972 to 1996.

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

(6) *Part V* (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 VII* (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 capital acquisitions tax) shall be construed together with the Capital Acquisitions Tax Act, 1976.

(8) *Parts I* and *VI* shall, save as is otherwise expressly provided therein, be deemed to have come into force and shall take effect as on and from the 6th day of April, 1996.

(9) In relation to *Part II*, *section 77* shall come into operation on the 1st day of July, 1996.

(10) In relation to *Part III*:

(*a*) *section 87*, *paragraph* (*a*) of *section 88*, *subparagraphs (ii)* and *(iii)* of *paragraph* (*a*) of *section 89*, *section 90*, *paragraph (b)* of *section 92*, *sections 95* and *96*, *paragraphs (b)* and (*c*) of *section 98* and *section 99* shall be deemed to have come into force and shall take effect as on and from the 1st day of January, 1996;

(*b*) *paragraph (a)* of *section 92* and *section 94* shall be deemed to have come into force and shall take effect as on and from the 1st day of March, 1996;

(*c*) *paragraph (a)* of *section 93* and *section 97* shall take effect as on and from the 1st day of July, 1996;

(*d*) the provisions of this Part, other than those specified in *paragraphs (a)*, (*b*) and (*c*), shall have effect as on and from the date of passing of this Act.

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

(12) In this Act, a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended. PT.VII S.143

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

FIRST SCHEDULE

Section 3.

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL RELIEFS

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

(*a*) in section 138 (inserted by the Finance Act, 1980)—

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

"(*a*) in a case in which the claimant is a married person—

(i) who is assessed to tax for the year of assessment in accordance with the provisions of section 194, or

(ii) who proves that his or her spouse is not living with him or her but that the spouse is wholly or mainly maintained by him or her for the year of assessment and that he or she is not entitled, in computing his or her income for tax purposes for that year, to make any deduction in respect of the sums paid by him or her for the maintenance of his or her spouse,

a deduction of £5,300,",

(ii) in paragraph (*b*) (as amended by the Finance Act, 1988), by the substitution of "£3,150" and "£5,300", respectively, for "£3,000" and "£5,000" (inserted by the Finance Act, 1995), and

(iii) in paragraph (*c*), by the substitution of "£2,650" for "£2,500" (inserted by the Finance Act, 1995),

and

(*b*) in subsection (2) of section 138A (inserted by the Finance Act, 1985), by the substitution of "£2,150" and "£2,650", respectively, for "£2,000" and "£2,500" (inserted by the Finance Act, 1995), and

(*c*) in subsection (1) (including the proviso thereto) of section 141 (inserted by the Finance Act, 1986), by the substitution of "£700" for "£600" in each place where it occurs.

2. Section 3 of the Finance Act, 1969, is hereby amended, in subsection (1), by the substitution of "£7,500" for "£5,000" (inserted by the Finance Act, 1990) in each place where it occurs.

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3. Section 11 of the Finance Act, 1971, is hereby amended by the substitution in subsection (2) (including the proviso thereto) of "£700" for "£600" (inserted by the Finance Act, 1985) in each place where it occurs and in the said proviso of "£1,600" for "£1,400" (inserted by the Finance Act, 1985).

Section 82.

SECOND SCHEDULE

RATES OF EXCISE DUTY ON SPIRITS

Description of Spirits	Rate of Duty
Spirits not mentioned hereinafter ...	£21.75 per litre of alcohol in the spirits
Spirits of an actual alcoholic strength by volume not exceeding 5.5% vol. ...	£15.65 per litre of alcohol in the spirits

Section 83.

THIRD SCHEDULE

RATES OF EXCISE DUTY ON TOBACCO PRODUCTS

Description of Product	Rate of Duty
Cigarettes	£60.34 per thousand together with an amount equal to 16.93 per cent. of the price at which the cigarettes are sold by retail
Cigars	£91.540 per kilogram
Fine-cut tobacco for the rolling of cigarettes	£77.246 per kilogram
Other smoking tobacco	£63.507 per kilogram

FOURTH SCHEDULE

Section 119.

STAMP DUTY ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
54 & 55 Vict., c. 39.	Stamp Act, 1891.	Sections 46, 101 and 110. In section 122 (1) in the Table to the definition of "accountable person" (inserted by the Finance Act, 1991) the words "BOND, COVENANT or INSTRUMENT of any kind whatsoever." in column (1) and the words "The obligee, covenantee, or other person taking the security." in column (2). In the First Schedule (inserted by the Finance Act, 1970) the reference to "instruments relating to, upon any other occasion. See BOND, COVENANT, &c." in the Heading "ANNUITY", the Heading "COVENANT in relation to any annuity (except upon the original creation and sale thereof) or to other periodical payments." together with the reference "See BOND, COVENANT, &c." thereto and the Heading "SUPERANNUATION ANNUITY." together with the reference "See BOND, COVENANT, &c." thereto.
62 & 63 Vict., c. 9.	Finance Act, 1899.	Section 7.
10 & 11 Geo. 5., c. 18.	Finance Act, 1920.	Section 39.
No. 35 of 1926.	Finance Act, 1926.	Section 37.
No. 20 of 1930.	Finance Act, 1930.	Section 15.
No. 14 of 1941.	Finance Act, 1941.	Sections 47 and 48.
No. 15 of 1947.	Finance Act, 1947.	Section 19.
No. 7 of 1968.	Finance (Miscellaneous Provisions) Act, 1968.	Section 11.
No. 14 of 1970.	Finance Act, 1970.	Section 48.
No. 19 of 1972.	Finance Act, 1972.	Section 34.

Section 132.

FIFTH SCHEDULE

PART I

PRE-CONSOLIDATION AMENDMENTS

The Income Tax Act, 1967

(No. 6 of 1967)

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

(1) In section 2, for subsection (2) there shall be substituted the following:

"(2) Without prejudice to the generality of subsection (1) in this Act, save so far as otherwise expressly provided, 'earned income' includes—

(*a*) any annuity made payable to an individual by the terms of an annuity contract or trust scheme for the time being approved by the Revenue Commissioners for the purposes of Chapter III of Part XII, to the extent to which such annuity is payable in return for any amount on which relief is given under section 236; and

(*b*) any payment or other sum which is, or is deemed to be, income chargeable to tax under Schedule E for any purpose of the Income Tax Acts.".

(2) In section 79—

(*a*) in subsection (1), after "The nature of the profits or gains" there shall be inserted "chargeable to income tax under Case IV of Schedule D", and

(*b*) in subsection (2), for "The computation shall be made," there shall be substituted "Income tax under Case IV of Schedule D shall be computed".

(3) For section 137 there shall be substituted the following:

"137.—(1) An individual who, in the manner prescribed by this Act, makes a claim in that behalf and who makes a return in the prescribed form of the individual's total income shall be entitled—

(*a*) for the purpose of ascertaining the amount of the income on which he or she is to be charged to income tax (in this Act referred to as 'the taxable income') to have such deductions as are specified in the provisions referred to in Part I of the Table to this section, but subject to those provisions, made from the individual's total income, and

(*b*) to have such reductions as are specified in the provisions referred to in Part II of the said Table, but subject to those provisions, made from the income tax to be charged on the individual.

(2) The provisions of Schedule 4 and of paragraph IX of Schedule 18 shall apply for the purpose of claims for— SCH.5 PT.I

(*a*) any such deductions from total income as are specified in the provisions referred to in Part I of the Table to this section, and

(*b*) any such reductions in tax as are specified in the provisions referred to in Part II of the Table to this section.

TABLE

PART I

Section 138
Section 138A
Section 138B
Section 141
Section 142
Section 142A (2)
Section 12 of the Finance Act, 1967
Section 3 of the Finance Act, 1969
Section 11 of the Finance Act, 1971
Section 8 of the Finance Act, 1974
Section 8 of the Finance Act, 1979
Section 12 of the Finance Act, 1984
Section 12 of the Finance Act, 1986
Section 44 of the Finance Act, 1986
Section 35 of the Finance Act, 1987
Section 4 of the Finance Act, 1989
Section 4 of the Finance Act, 1991
Section 46 of the Finance Act, 1994
Section 69 of the *Finance Act, 1996*

PART II

Section 142A (2A)
Section 145
Section 6 of the Finance Act, 1995
Section 7 of the Finance Act, 1995
Section 5 of the *Finance Act, 1996*".

(4) In section 145 (2), for all the words from "then—" to the end of subsection (3) there shall be substituted the following:

"then, the income tax to be charged on the individual, if the individual made the payment, or on the individual's spouse, if the individual's spouse made the payment, for the year of assessment, other than in accordance with section 5 (3) of the Finance Act, 1974, shall be reduced by an amount which is the lesser of—

(*a*) (i) where the payment covers no benefits other than such reimbursement or discharge, an amount equal to the appropriate percentage of the full amount of the payment, or

(ii) where the payment covers benefits other than such reimbursement or discharge, an amount equal to the appropriate percentage of so much of the payment as is referable to such reimbursement or discharge,

and

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

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(2A) In subsection (2) 'appropriate percentage', in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year.

(3) Where the income tax reduction of one of the spouses is ascertained in accordance with subsection (2), then—

(*a*) if there is no income tax to be charged on the spouse for the year of assessment, other than in accordance with section 5 (3) of the Finance Act, 1974, in relation to which relief under the said subsection can be given, the relief may be given in relation to income tax to be charged on the other spouse for that year, other than in accordance with the said section 5 (3), and

(*b*) if the amount ascertained as aforesaid exceeds the income tax to be charged on the spouse for the year of assessment, other than in accordance with the said section 5 (3), the excess may be used to reduce the income tax to be charged on the other spouse for that year, other than in accordance with the said section 5 (3).".

(5) In section 146, for "sections 138 to 145" there shall be substituted "the sections specified in the Table to section 137".

(6) In section 149, for "under sections 138 to 145" there shall be substituted "or relief under the sections specified in the Table to section 137".

(7) In section 153, for subsection (1) there shall be substituted the following:

"(1) Save as is otherwise provided by this section, an individual who is not resident in the State shall not be entitled to any of the allowances, deductions, reliefs or reductions under the provisions specified in the Table to section 137.".

(8) In section 195A, for subsection (6) there shall be substituted the following:

"(6) (*a*) The provisions of sections 146, 149 and 497 shall apply to a repayment of tax under this section as they apply to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 137.

(*b*) The provisions of Schedule 4 and of paragraph IX of Schedule 18 shall, with any necessary modifications, apply in relation to a repayment of tax under this section.".

(9) In section 235 (7) (*b*) after "him," there shall be inserted "or".

(10) In section 239 (8) (*b*), for "the references to sections 143, 151 or 236" there shall be substituted "the reference to section 236".

(11) In section 239 (9), for "sections 143, 151 and 236" there shall be substituted "section 236".

(12) In section 241—

(*a*) for subsection (1) (including the provisos thereto) there shall be substituted, as respects chargeable periods ending on or after the 6th day of April, 1996, the following: SCH.5 PT.I

"(1) Subject to the provisions of this Act, where a person carrying on a trade in any chargeable period has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade—

(*a*) an allowance shall be made to him for that chargeable period on account of the wear and tear of any of the machinery or plant which belongs to him and is in use for the purposes of the trade at the end of that chargeable period or its basis period and which, while used for the purposes of the trade, is wholly and exclusively so used,

(*b*) the amount of the allowance shall, subject to subsection (6), be equal to—

(i) in the case of machinery or plant, other than machinery or plant of the type referred to in subparagraph (ii), 15 per cent. of the capital expenditure incurred as aforesaid, or

(ii) in the case of machinery or plant which consists of a vehicle suitable for the conveyance by road of persons or goods or the haulage by road of other vehicles, 20 per cent. of the value of such machinery or plant at the commencement of the chargeable period and, for the purposes of this subparagraph, such value shall be taken to be the actual cost to that person of such machinery or plant reduced by the total of any allowances made to the person under this section for previous chargeable periods in respect of that machinery or plant, and

(*c*) the allowance shall be made in taxing the trade:

Provided that where a chargeable period or its basis period consists of a period which is less than one year in length the allowance to be made under this section shall not exceed such portion of the amount specified in paragraph (*b*) as bears to that amount the same proportion as the length of the chargeable period or its basis period bears to a period of one year.

(1A) Where, in the case of machinery or plant of the type referred to in paragraph (*b*)(i) of subsection (1) which was provided for use before the 1st day of April, 1992, that subsection shall apply as if the reference therein to capital expenditure incurred were a reference to such expenditure reduced by the total amount of—

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(*a*) any allowances made to the person concerned under this section on account of the wear and tear of that machinery or plant, and

(*b*) any initial allowance made to that person under Chapter I of Part XV in respect of the expenditure incurred by that person on the machinery or plant,

for any chargeable period ending on or before the 5th day of April, 1996.", and

(*b*) after subsection (9), there shall be inserted the following:

"(9A) For the purposes of this section—

(*a*) capital expenditure shall not include any expenditure which is allowed to be deducted in computing, for the purposes of tax, the profits or gains of a trade carried on by the person incurring the expenditure, and

(*b*) the day on which any expenditure is incurred shall be the day on which the sum in question becomes payable:

Provided that this paragraph shall apply only in respect of machinery or plant that is provided for use for the purposes of a trade on or after the 6th day of April, 1996.".

(13) In section 297—

(*a*) in subsection (1), for "In this Part, as it applies" there shall be substituted "In this Part and in Parts XIII to XV, as they apply",

(*b*) after subsection (3), there shall be inserted the following:

"(3A) Any reference in the proviso to subsection (2) to the permanent discontinuance of a trade shall be construed as including a reference to the occurring of any event which, under any of the provisions of this Act, is to be treated as equivalent to the permanent discontinuance of a trade.",

(*c*) in subsection (4), after "under Chapter II of this Part" there shall be inserted ", or under Part XIII or Chapter I of Part XV,", and

(*d*) in subsection (5), after "under this Part," there shall be inserted "or under Part XIII or XV,".

(14) In section 298, for subsection (4) there shall be substituted the following:

"(4) The preceding provisions of this section shall, with the necessary adaptations, have effect in relation to the provisions

mentioned in the Table to this subsection as if those latter provisions were provisions of this Part. SCH.5 PT.I

TABLE

Section 241
Section 241A
Chapters I and II of Part XIV
Part XV
Finance (Taxation of Profits of Certain Mines) Act, 1974".

(15) In section 299 (1), for paragraph (*b*) there shall be substituted the following:

"(*b*) it appears with respect to the sale or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under section 241 or 241A, under Chapter I or II of Part XIV, under Part XV, under the Finance (Taxation of Profits of Certain Mines) Act, 1974, or under any of the provisions of this Part.".

(16) In section 312 (2), for "for the purposes of subsection (1) (*a*) (*c*)" there shall be substituted "for the purposes of paragraphs (*a*) and (*c*) of subsection (1)".

(17) In section 316, for subsection (2) there shall be substituted the following:

"(2) This section shall not apply to any sum assessed under section 434 by virtue of section 288, or section 25 (1) of the Finance Act, 1969, or section 31 (2) of the Finance Act, 1974.".

(18) For section 321 there shall be substituted the following:

"Relief affected by subsequent changes of law, etc.

321.—(1) If relief given to a person by virtue of section 318 (1) for any year of claim is affected by a subsequent alteration of the law, or by any discontinuance of the trade or other event occurring after the end of the year, any necessary adjustment may be made, and so much of any repayment of tax as exceeded the amount repayable in the events that happened shall, if not otherwise made good, be recovered from the person by assessment under Case IV of Schedule D.

(2) For the purpose of such assessment as is mentioned in subsection (1), the amount of capital allowances by reference to which the repayment was made, or an appropriate part of that amount, shall be deemed to be income chargeable under the said Case IV for the year of claim and shall be included in the return of income which the person is required to make under the provisions of this Act for that year.".

(19) In section 433 (1)—

(*a*) for "any yearly interest of money, annuity, or other annual payment" there shall be substituted "any annuity, or any

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other annual payment apart from yearly interest of money", and

(*b*) for "the person liable to the interest, annuity, or annual payment" there shall be substituted "the person liable to the annuity or annual payment".

(20) In section 434 (1), for "any interest of money, annuity, or other annual payment" there shall be substituted "any annuity, or other annual payment (apart from yearly interest of money)".

(21) In section 468 (2), for "433, 434 or 456" there shall be substituted "433 or 434".

(22) In section 471(2), for "433, 434 or 456" there shall be substituted "433 or 434".

(23) In section 497, for the words from the commencement of the section to the end of the first proviso there shall be substituted the following:

"Any repayment of income tax for any year of assessment to which any person may be entitled in respect of any allowance, deduction, relief or reduction under the provisions specified in the Table to section 137 shall, save as otherwise provided by this Act, be made at the standard rate of tax or at the higher rate or rates, as the case may be:

Provided that, in the case of any person who proves as regards any year that, by reason of the allowances, deductions or reliefs to which he is entitled, he has no taxable income for that year, any repayment to be made shall be a repayment of the whole amount of the tax paid by him, whether by deduction or otherwise, in respect of his income for that year:".

The Finance Act, 1967

(No. 17 of 1967)

2. In section 11 of the Finance Act, 1967, after subsection (2A) there shall be inserted the following proviso:

"Provided that, as respects chargeable periods ending on or after the 6th day of April, 1999, no allowance made under the said section 241 for wear and tear of any qualifying machinery or plant provided for use before the said 1st day of April, 1992, shall be increased under this section.".

The Finance Act, 1968

(No. 33 of 1968)

3. In section 6 of the Finance Act, 1968, after subsection (5) there shall be inserted the following:

"(6) Section 508 of the Income Tax Act, 1967, is hereby amended by the insertion in subsection (1) after '240 or 296' of 'or section 6 of the Finance Act, 1968'.".

The Finance Act, 1969

(No. 21 of 1969)

4. In section 19 of the Finance Act, 1969, for subsection (1) there shall be substituted the following:

"(1) In this section—

'farm land' means land in the State wholly or mainly occupied for the purposes of husbandry, other than market garden land within the meaning of section 54 of the Income Tax Act, 1967;

'occupation' has the same meaning as in section 18.".

The Finance Act, 1971

(No. 23 of 1971)

5. In section 26 of the Finance Act, 1971, after subsection (2A) there shall be inserted the following proviso:

"Provided that, as respects chargeable periods ending on or after the 6th day of April, 1999, no allowance made under the said section 241 for wear and tear of any qualifying machinery or plant provided for use before the said 1st day of April, 1992, shall be increased under this section.".

The Finance Act, 1972

(No. 19 of 1972)

6. In Part VI of the First Schedule to the Finance Act, 1972, for paragraphs 1 and 2 there shall be substituted the following:

"1. This Part applies to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been held for the purposes of a scheme which is or has at any time been approved for the purposes of Chapter II.

2. If the payment—

(*a*) is not expressly authorised by the rules of the scheme, or

(*b*) is made at a time when the scheme is not approved for the purposes of Chapter II and would not have been expressly authorised by the rules of the scheme when it was last so approved,

the employee (whether or not he is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.".

The Finance Act, 1973

(No. 19 of 1973)

7. In section 34 (1) of the Finance Act, 1973, for paragraph (*b*) (i) of the definition of "income from a qualifying patent" there shall be substituted the following:

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"(i) is not connected (within the meaning of *section 131* of the *Finance Act, 1996*, as it applies for the purposes of the Capital Gains Tax Acts) with the person who is the beneficial recipient of the royalty or other sum, and".

The Finance (Taxation of Profits of Certain Mines) Act, 1974

(No. 17 of 1974)

8. The Finance (Taxation of Profits of Certain Mines) Act, 1974, is hereby amended in accordance with the following provisions of this paragraph.

In section 1—

(1) in subsection (1), for the definition of "scheduled minerals" there shall be substituted the following:

" 'scheduled minerals' means minerals specified in the Table to this section occurring in non-bedded deposits of such minerals;",

(2) after subsection (5), there shall be inserted the following:

"(6) The Minister for Finance may by regulation add minerals occurring in non-bedded deposits of such minerals to the Table to this section.

(7) Every regulation made under subsection (6) of this section shall be laid before Dáil Éireann as soon as may be after it is made and if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

TABLE

SCHEDULED MINERALS

Barytes
Felspar
Serpentinous marble
Quartz rock
Soapstone
Ores of copper
Ores of gold
Ores of iron
Ores of lead
Ores of manganese
Ores of molybdenum
Ores of silver
Ores of sulphur
Ores of zinc".

The Finance Act, 1974

(No. 27 of 1974)

9. In section 62 of the Finance Act, 1974, for subsection (3) there shall be substituted the following:

"(3) Where, for the year 1973-74 or any earlier year of assessment, a deduction such as is referred to in subsection (2) has been allowed under subsection (5) of the said section 81 and there is a deficiency within the meaning of subsection (4) of the said section 81, so much of any such deficiency as is attributable

to the allowance of the deduction aforesaid shall not be carried forward, or set against profits or gains for the year 1974-75 or any subsequent year of assessment under the provisions of section 89 or 310 of the Income Tax Act, 1967.". SCH.5 PT.I

The Corporation Tax Act, 1976

(No. 7 of 1976)

10. The Corporation Tax Act, 1976, is hereby amended in accordance with the following provisions of this paragraph.

(1) In section 6, for subsection (5) there shall be substituted the following:

"(5) Corporation tax shall be under the care and management of the Revenue Commissioners and subsections (2), (3), (4) and (5) of section 155 of the Income Tax Act, 1967, shall, subject to any necessary modifications, apply to corporation tax.".

(2) In section 50 (1), before "46A" there shall be inserted "33A,".

(3) In section 50 (4), for paragraph (*c*) there shall be substituted the following:

"(*c*) any contract with the trustees or other persons having the management of a scheme approved under section 235 or 235A of the Income Tax Act, 1967, or under both of those sections, being a contract which—

(i) was entered into for the purposes only of that scheme, and

(ii) (in the case of a contract entered into or varied on or after the 6th day of April, 1958) is so framed that the liabilities undertaken by the assurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme,".

(4) In section 102 (1), after "For the purposes of this Part" there shall be inserted "and section 162".

(5) In section 147 (2), before "521" there shall be inserted "520,".

The Finance Act, 1978

(No. 21 of 1978)

11. In section 25 of the Finance Act, 1978, after subsection (2A) there shall be inserted the following proviso:

"Provided that, as respects chargeable periods ending on or after the 6th day of April, 1999, no allowance made under the said section 264 in respect of qualifying expenditure incurred before the said 1st day of April, 1992, shall be increased under this section.".

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The Finance Act, 1980

(No. 14 of 1980)

12. In section 2 of the Finance Act, 1980, for subsection (4) there shall be substituted the following:

"(4) (*a*) The provisions of sections 146, 149 and 497 of the Income Tax Act, 1967, shall apply in relation to exemption from or any reduction of tax under this section or under section 1 as they apply in relation to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 137 of that Act.

(*b*) The provisions of Schedule 4 to the Income Tax Act, 1967, and of paragraph IX of Schedule 18 to that Act shall, with any necessary modifications, apply in relation to exemption from or any reduction of tax under this section or under section 1.".

The Finance Act, 1983

(No. 15 of 1983)

13. The Finance Act, 1983, is hereby amended in accordance with the following provisions of this paragraph.

(1) In section 3, for paragraph (*a*) of subsection (4), there shall be substituted the following:

"(*a*) The provisions of sections 146 and 149 of the Income Tax Act, 1967, shall apply to a deduction under subsection (2)(*c*) as they apply to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 137 of that Act.".

(2) In section 94 (2), after paragraph (*e*), there shall be inserted the following:

"(*ee*) knowingly or wilfully, and within the time limits specified for their retention, destroys, defaces, or conceals from an authorised officer—

(i) any documents, or

(ii) any other written or printed material in any form, including 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, which a person is obliged by any provision of the Acts to keep, to issue or to produce for inspection,".

The Finance Act, 1985

(No. 10 of 1985)

14. In section 10 of the Finance Act, 1985, for subsection (6) there shall be substituted the following:

"(6) (*a*) The provisions of sections 146, 149 and 497 of the Income Tax Act, 1967, shall apply to a deduction under this section as they apply to any allowance, deduction, relief or reduction under the provisions specified in the Table to section 137 of that Act. SCH.5 PT.I

(*b*) The provisions of Schedule 4 to the Income Tax Act, 1967, and of paragraph IX of Schedule 18 to that Act shall, with any necessary modifications, apply in relation to a deduction under this section.".

The Finance Act, 1986

(No. 13 of 1986)

15. In section 12 of the Finance Act, 1986, for subsection (2) other than the proviso there shall be substituted the following:

"(2) Subject to the subsequent provisions of this section, where an eligible employee, in relation to a qualifying company, subscribes for eligible shares in the qualifying company, he shall be entitled to have a deduction made from his total income for the year of assessment in which the shares are issued of an amount equal to the amount of the subscription:".

The Finance Act, 1987

(No. 10 of 1987)

16. In section 24 of the Finance Act, 1987, for subsection (2) there shall be substituted, as respects chargeable periods ending on or after the 6th day of April, 1996, the following:

"(2) In determining, for any chargeable period, what capital allowances fall to be made to a person in taxing a trade which consists of or includes the carrying on of qualifying purposes, section 241 of the Income Tax Act, 1967, shall apply to a car which, as respects that period, has been used by the person for qualifying purposes as if the reference in paragraph (*b*) (ii) of subsection (1) of that section to '20 per cent.' were a reference to '40 per cent.'.".

The Finance Act, 1991

(No. 13 of 1991)

17. In section 4 (1) (*b*) of the Finance Act, 1991, for "subsections (3), (4), (6) and (7)" there shall be substituted "subsections (3), (4) and (6)".

The Finance Act, 1992

(No. 9 of 1992)

18. In section 83 of the Finance Act, 1992, for subsection (2) there shall be substituted, as respects chargeable periods ending on or after the 6th day of April, 1996, the following:

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"(2) In relation to assets representing development expenditure, subsection (1) of section 241 of the Income Tax Act, 1967, shall, subject to subsection (3), have effect as if the reference in paragraph (*b*) (i) of the said subsection (1) to '15 per cent.' were a reference to '100 per cent.'.".

The Finance Act, 1995

(No. 8 of 1995)

19. In section 177(4) of the Finance Act, 1995, for "paragraphs (*a*) and (*b*) and subsection (2)" there shall be substituted "paragraphs (*a*) and (*b*) of subsection (2)".

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20. The amendments in this Part of this Schedule shall not affect the liability to income tax or capital gains tax for years of assessment ending on or before the 5th day of April, 1996, or the liability to corporation tax for accounting periods ending on or before that date, or the assessment, collection or recovery of any of those taxes or of interest thereon or other proceedings relating to those taxes or that interest.

PART II SCH.5

PRE-CONSOLIDATION REPEALS

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 8 of 1956	Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956.	Section 1.
No. 6 of 1967	Income Tax Act, 1967.	Section 43. In section 58 (5) (*a*) (i), the words "308 or". Section 89A. Section 138A (7). Section 141 (7). Section 145 (3A) and (5). In section 186 (3), the words ", and to the respective duplicates thereof," and the words "and duplicate". In section 187 (1), the words from ", and references in this Act" to the end and subsection (2). In section 235 (7), the word "or" in paragraph (*c*) (where it last occurs), and paragraph (*d*). Section 241 (7), (8) and (9). Section 242. Section 243. In section 244 (4), paragraph (*e*). In section 244 (5) (*b*), the words "and (*e*)". In section 244 (6), ", 243". In section 245 (7), ", 243". Section 247 (3). Section 249. Section 259. Section 262. Section 273 (2). In section 300 (1), the words "and 243". Section 306. In section 309, the words "or 308". Section 344. Section 346. Section 360. In section 441 (1) and (2), the words "or 440". In section 442, the definition of "child". In section 447, the definition of "child". Section 448 (2). Section 476. Section 477 (2) and (3). In section 478, the words "contained in the duplicates, and". Section 479. Section 480. Section 482 (3). In section 484 (3), the words from "including the issue" to "chattels"and the words "or distraint". Section 494 (2). Section 495. In section 496 (1) (*c*), the words "(including interest to which section 30 (1) or 50 (2) of the Finance Act, 1974, applies)". Section 540. Section 543. Section 557. Section 558. Schedule 2, Rule 1, paragraph (3). In Schedule 2, Rule 3, the words "or of keeping and maintaining a horse to enable him to perform the same,". Schedule 13.

SCH.5 PT.II

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 17 of 1967	Finance Act, 1967.	Section 12 (5) (*c*).
No. 33 of 1968	Finance Act, 1968.	Section 4.
No. 21 of 1969	Finance Act, 1969.	Section 3 (3). Section 4. Section 5. In section 18 (1), the definition of "farming".
No. 23 of 1971	Finance Act, 1971.	Section 11 (4).
No. 19 of 1972	Finance Act, 1972.	In section 15 (4), the words from "In applying this subsection" to the end. Section 16 (6). Section 17 (3). Section 18 (1) (*b*). Section 24. Section 25. First Schedule, Part II, paragraph 1 (2). First Schedule, Parts IV and V.
No. 27 of 1974	Finance Act, 1974.	In section 4, in paragraph (*b*) the word "or" (where it last occurs) and paragraph (*c*) and in paragraph (*e*), the words ", subject to the provisions of sections 233 and 525 of the Income Tax Act, 1967,". Section 8 (2). In section 27 (2), the words "or 308" in paragraphs (*a*) and (*b*). Section 30. In section 31 (3), the words "Subject, as respects paragraph (*a*), to section 50 (4)," and paragraph (*a*). Section 40. Section 50.
No. 6 of 1975	Finance Act, 1975.	Section 31. Section 31A. In the Second Schedule, Part I, paragraph 2, "308,". Third Schedule. Fifth Schedule.
No. 20 of 1975	Capital Gains Tax Act, 1975.	Section 2 (2). Section 27 (1) (*d*). In section 27 (3), the words "or (3A), as the case may be,". Section 33 (8).
No. 7 of 1976	Corporation Tax Act, 1976.	In section 11 (6), the words "(excluding the provisions of Part XXV of the Income Tax Act, 1967 (Temporary Relief from Taxation))". Section 12 (8). In section 39 (2) (*b*), the words "or 47". In section 43 (5) (*a*), the words ", or that subsection as modified by section 37,". In section 51 (3), paragraphs (*b*) and (*c*). Section 52 (5). Section 68. In section 147 (2), ", 543". Section 153.
No. 16 of 1976	Finance Act, 1976.	Section 12. Section 15. Section 16.
No. 18 of 1977	Finance Act, 1977.	In section 39 (4) (*b*), the proviso.
No. 21 of 1978	Finance Act, 1978.	Section 9. First Schedule, Part III.
No. 11 of 1979	Finance Act, 1979.	Section 5. Section 8 (2) (*b*).

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 14 of 1980	Finance Act, 1980.	Section 28.
No. 16 of 1981	Finance Act, 1981.	Section 13.
No. 14 of 1982	Finance Act, 1982.	Section 6. Section 13.
No. 15 of 1983	Finance Act, 1983.	Section 94 (1) (*ee*).
No. 9 of 1984	Finance Act, 1984.	Section 12 (9). Section 33. Part I, Chapter VIII. Part I, Chapter IX.
No. 13 of 1986	Finance Act, 1986.	Section 12 (9). Section 44 (4).
No. 10 of 1989	Finance Act, 1989.	Section 4 (7).
No. 13 of 1991	Finance Act, 1991.	Section 4 (3).
No. 9 of 1992	Finance Act, 1992.	Section 26 (1), (2), (3) and (5). Section 243 (*a*) (ii).
No. 13 of 1993	Finance Act, 1993.	Section 28.
No. 13 of 1994	Finance Act, 1994.	Section 46 (5).
No. 8 of 1995	Finance Act, 1995.	Section 6 (6). Section 7 (10). Section 21. Section 22.

The repeals in this Part of this Schedule shall not affect the liability to income tax or capital gains tax for years of assessment ending on or before the 5th day of April, 1996, or the liability to corporation tax for accounting periods ending on or before that date, or the assessment, collection or recovery of any of those taxes or of interest thereon or other proceedings relating to those taxes or that interest.

ACTS REFERRED TO

Capital Acquisitions Tax Act, 1976	1976, No. 8
Capital Gains Tax Act, 1975	1975, No. 20
Casual Trading Act, 1995	1995, No. 19
Central Bank Act, 1971	1971, No. 24
Companies Act, 1963	1963, No. 33
Corporation Tax Act, 1976	1976, No. 7
Diplomatic Relations and Immunities Act, 1967	1967, No. 8
Environmental Protection Agency Act, 1992	1992, No. 7
Finance Act, 1899	62 & 63 Vict., c. 9
Finance (1909-10) Act, 1910	10 Edw. 7 & 1 Geo. 5, c. 8
Finance Act, 1920	10 & 11 Geo. 5, c. 10
Finance Act, 1926	1926, No. 35
Finance Act, 1930	1930, No. 20
Finance Act, 1935	1935, No. 28
Finance Act, 1941	1941, No. 14
Finance Act, 1947	1947, No. 15
Finance Act, 1950	1950, No. 18
Finance Act, 1961	1961, No. 23
Finance Act, 1965	1965, No. 22
Finance Act, 1967	1967, No. 17
Finance Act, 1968	1968, No. 33
Finance Act, 1969	1969, No. 21
Finance Act, 1970	1970, No. 14
Finance Act, 1971	1971, No. 23
Finance Act, 1972	1972, No. 19
Finance Act, 1973	1973, No. 19
Finance Act, 1974	1974, No. 27
Finance Act, 1975	1975, No. 6
Finance Act, 1976	1976, No. 16
Finance Act, 1977	1977, No. 18
Finance Act, 1978	1978, No. 21
Finance Act, 1979	1979, No. 11
Finance Act, 1980	1980, No. 14
Finance Act, 1981	1981, No. 16
Finance Act, 1982	1982, No. 14
Finance Act, 1983	1983, No. 15
Finance Act, 1984	1984, No. 9
Finance Act, 1985	1985, No. 10
Finance Act, 1986	1986, No. 13
Finance Act, 1987	1987, No. 10
Finance Act, 1988	1988, No. 12
Finance Act, 1989	1989, No. 10
Finance Act, 1990	1990, No. 10
Finance Act, 1991	1991, No. 13
Finance Act, 1992	1992, No. 9
Finance (No. 2) Act, 1992	1992, No. 28
Finance Act, 1993	1993, No. 13
Finance Act, 1994	1994, No. 13
Finance Act, 1995	1995, No. 8
Finance (Excise Duty on Tobacco Products) Act, 1977	1977, No. 32
Finance (Excise Duties) (Vehicles) Act, 1952	1952, No. 24
Finance (Miscellaneous Provisions) Act, 1968	1968, No. 7
Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956	1956, No. 8
Finance (Taxation of Profits of Certain Mines) Act, 1974	1974, No. 17
Health Insurance Act, 1994	1994, No. 16

Housing (Miscellaneous Provisions) Act, 1979	1979, No. 27
Income Tax Act, 1967	1967, No. 6
Industrial Development Act, 1995	1995, No. 28
Local Authorities (Higher Education Grants) Acts, 1968 to 1992	
Local Government (Planning and Development) Acts, 1963 to 1993	
Merchant Shipping Acts, 1894 to 1993	
Mercantile Marine Act, 1955	1955, No. 29
Roads Act, 1920	10 & 11 Geo. 5, c. 72
Road Traffic Act, 1961	1961, No. 24
Securitisation (Proceeds of Certain Mortgages) Act, 1995	1995, No. 30
Social Welfare (Consolidation) Act, 1993	1993, No. 27
Stamp Act, 1891	54 & 55 Vict., c. 39
Tourist Traffic Act, 1939	1939, No. 24
Tourist Traffic Act, 1957	1957, No. 27
Trade Marks Act, 1996	1996, No. 6
Value-Added Tax Act, 1972	1972, No. 22
Value-Added Tax (Amendment) Act, 1978	1978, No. 34