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*Number 15 of 1998*

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**FINANCE (NO. 2) ACT, 1998**

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ARRANGEMENT OF SECTIONS

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Income Tax, Corporation Tax and Capital Gains Tax

Section

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2. Restriction of relief in respect of loans applied in acquiring interest in companies and partnerships.
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Acts Referred to

Capital Acquisitions Tax Act, 1976	1976, No. 8
Finance Act, 1969	1969, No. 21
Finance Act, 1970	1970, No. 14
Finance Act, 1979	1979, No. 11
Finance Act, 1983	1983, No. 15
Finance Act, 1990	1990, No. 10
Finance Act, 1993	1993, No. 13
Finance Act, 1996	1996, No. 9
Finance Act, 1997	1997, No. 22
Finance Act, 1998	1998, No. 3
Housing Acts, 1966 to 1997	
Housing (Miscellaneous Provisions) Act, 1992	1992, No. 18
Local Government (Planning and Development) Act, 1963	1963, No. 28
Stamp Act, 1891	54 & 55 Vict., c. 39
Taxes Consolidation Act, 1997	1997, No. 39
Tourist Traffic Act, 1939	1939, No. 24
Tourist Traffic Act, 1957	1957, No. 27



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**FINANCE (NO. 2) ACT, 1998**  
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AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES OF  
INLAND REVENUE, TO AMEND THE LAW RELATING  
TO INLAND REVENUE AND TO MAKE FURTHER PRO-  
VISIONS IN CONNECTION WITH FINANCE.

[20th May, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

1.—(1) As on and from the 23rd day of April, 1998, Chapter 8 of Part 4 of the Taxes Consolidation Act, 1997, is hereby amended—

Taxation of rents  
and certain other  
payments.

- (a) in section 96(1), by the insertion of the following definitions after the definition of “rent”:

“‘rented residential premises’ means a residential premises in respect of which any person is entitled to a rent or receipts from any easements;

‘residential premises’ means any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building.”,

and

- (b) in section 97, by the insertion of the following after subsection (2):

“(2A) Notwithstanding subsection (2) but subject to the other provisions of this section, a deduction shall not be authorised by paragraph (e) of that subsection by reference to interest on borrowed money employed on or after the 23rd day of April, 1998, in the purchase, improvement or repair of a premises which, at any time during the year, is a residential premises.

(2B) Subject to subsection (2C), subsection (2A) shall not apply in relation to interest on borrowed money employed—

- (a) on or before the 31st day of December, 1998, in the purchase of a residential premises in pursuance of a contract which was evidenced in writing prior to the 23rd day of April, 1998, for the purchase of that premises,
- (b) in the improvement or repair of a premises which on the 23rd day of April, 1998, or at any time during the 12 month period ending on that day, is or was a rented residential premises—
- (i) in which the person chargeable had an estate or interest on that day, or
  - (ii) in respect of which the person chargeable is, or would be, entitled, by virtue of paragraph (a), to a deduction authorised by subsection (2)(e) by reference to interest on borrowed money employed in its purchase,
- (c) in the purchase, improvement or repair of premises which is—
- (i) a building or structure to which section 352 applies by virtue of the building or structure being a holiday cottage of the type referred to in section 268(3), or
  - (ii) a building or structure which is a qualifying premises within the meaning of section 353 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 specified in a list published under section 9 of the Tourist Traffic Act, 1957,
- or
- (iii) a qualifying premises within the meaning of section 356, 357 or 358,
- (d) in the purchase, improvement or repair of any premises, other than premises to which paragraph (c) applies, the site of which is wholly within a qualifying rural area within the meaning of Chapter 8 of Part 10 of the Taxes Consolidation Act, 1997, or
- (e) in the purchase, improvement or repair of premises, other than premises to which paragraphs (c) and (d) apply, where—

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- (i) the premises is a holiday cottage, Pt.1 S.1  
holiday apartment or other self-cater-  
ing accommodation either registered  
under Part III of the Tourist Traffic  
Act, 1939, or specified in a list pub-  
lished under section 9 of the Tourist  
Traffic Act, 1957,
- (ii) an application for planning permission  
for the development of the premises  
was received by a planning authority  
before the 23rd day of April, 1998, and
- (iii) the terms under which planning per-  
mission in respect of the development  
of the premises was granted by the  
planning authority contain the con-  
dition that the premises may not be  
used by any person for residential use  
in excess of 2 consecutive calendar  
months at any one time and such con-  
dition is in force during the year.
- (2C) (a) For the purposes of subsections (2A)  
and (2B), borrowed money employed  
on or after the 23rd day of April, 1998,  
on the construction of a building or  
part of a building for use or suitable  
for use as a dwelling on land in which  
the person chargeable has an estate or  
interest shall, together with any bor-  
rowed money which that person  
employed in the acquisition of such  
land, be deemed to be borrowed  
money employed in the purchase of a  
residential premises.
- (b) In any case where paragraph (a) applies,  
subsection (2B)(a) shall apply only  
where the money is employed on or  
before the 31st day of December, 1998,  
and the person chargeable—
- (i) has before the 23rd day of April,  
1998, either—
- (I) an estate or interest in land, or
- (II) entered into a contract evi-  
denced in writing to acquire  
an estate or interest in land,
- and
- (ii) in respect of any building or part of  
any building for use or suitable  
for use as a dwelling to be con-  
structed on that land, either—
- (I) has entered into a contract  
evidenced in writing before  
the 23rd day of April, 1998,  
for the construction of that  
building or that part of that  
building, or

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(II) if no such contract exists, satisfies the Revenue Commissioners that the foundation for that building or that part of that building was laid in its entirety before the 23rd day of April, 1998.

(2D) Where—

(a) any premises in respect of which the person chargeable is entitled to a rent or to receipts from any easement consists in part of residential premises and in part of premises which are not residential premises, and

(b) subsection (2A) applies,

then, the amount of the deduction which is authorised under subsection (2)(e) by reference to interest on borrowed money employed in the purchase, improvement or repair of those premises shall be the amount of interest on that part of the borrowed money which can, on a just and reasonable basis, be attributed to that part of the premises which are not residential premises.

(2E) Notwithstanding anything contained in this section, where a premises in respect of which the person chargeable is entitled to a rent or to receipts from any easement is at any time on or after the 23rd day of April, 1998, the sole or main residence of that person, a deduction shall not be authorised by subsection (2)(e) by reference to any interest payable for any year or part of a year commencing after the date on which the premises ceases to be the sole or main residence of that person.”.

(2) Section 71 of the Taxes Consolidation Act, 1997, is hereby amended by the substitution of the following after subsection (4):

“(4A) For the purposes of subsection (4), section 97 shall apply as if references to the 23rd day of April, 1998, in subsections (2A), (2B), (2C) and (2E) of that section, were references to the 7th day of May, 1998.”.

Restriction of relief in respect of loans applied in acquiring interest in companies and partnerships.

2.—Chapter 3 of Part 8 of the Taxes Consolidation Act, 1997, is hereby amended by the insertion of the following section after section 248—

“248A.—(1) In this section—

‘chargeable period’ has the same meaning as in section 321(2);

‘premises’ and ‘rented residential premises’ have the same meanings, respectively, as in section 96.

(2) Where—

(a) a loan, being a loan to which section 247, 248 or 253 applies, is applied on or after the 7th day of May, 1998, to defray money for any of the purposes specified in those sections, and

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(b) the money so defrayed is used, in whole or in part, Pt.1 S.2  
directly or indirectly—

(i) in the purchase, improvement or repair of a  
premises, or

(ii) in paying off a loan used in the purchase,  
improvement or repair of a premises,

then, the relief to be given for a chargeable period under those sections in respect of that loan shall, for any chargeable period in which the premises is at any time a rented residential premises, be reduced by the interest attributable to so much of the money used for the purposes specified in subparagraphs (i) and (ii) of paragraph (b).”.

**3.**—The Taxes Consolidation Act, 1997, is hereby amended by the substitution for section 649A (inserted by section 65 of the Finance Act, 1998) of the following section:

Rate of capital  
gains tax on certain  
disposals of  
development land.

“Relevant disposals:  
rate of charge.

649A.—(1) Notwithstanding subsection (3) of section 28, and subject to subsection (2), the rate of capital gains tax in respect of a chargeable gain accruing to a person on a relevant disposal shall be—

(a) subject to paragraph (b), in the case of a disposal on or after the 3rd day of December, 1997, 40 per cent, and

(b) in the case of a disposal, on or after the 6th day of April, 2002, of land which, in accordance with a development objective (as indicated in the development plan of the planning authority concerned), is for use solely or primarily for residential purposes, 60 per cent.

(2) (a) Subsection (1) shall not apply to a relevant disposal to which this subsection applies and accordingly, the rate of capital gains tax in respect of a chargeable gain on such a relevant disposal shall be the rate specified in subsection (3) of section 28.

(b) This subsection shall apply to a relevant disposal—

(i) to which section 650 refers, or

(ii) being a disposal, at any time in the period beginning on the 23rd day of April, 1998, and ending on the 5th day of April, 2002, of land—

(I) to a housing authority (within the meaning of section 23 of the Housing (Miscellaneous Provisions) Act, 1992), which land is specified in a certificate in writing given by

the housing authority as land being required by the housing authority for the purposes of the Housing Acts, 1966 to 1997, or

(II) in respect of the whole of which, at the time at which the disposal is made, permission for residential development has been granted under section 26 of the Local Government (Planning and Development) Act, 1963, and such permission has not ceased to exist, other than a disposal—

(A) by any person ('the disposer') to a person who is connected with the disposer, or

(B) of land under a relevant contract in relation to the disposal.

(3) In this section—

'development plan' has the meaning assigned to it by the Local Government (Planning and Development) Act, 1963;

'planning authority' has the meaning assigned to it by section 2(2) of the Local Government (Planning and Development) Act, 1963;

'relevant contract', in relation to a disposal of land, means a contract or other arrangement under which the land is disposed of which is conditional on permission for development, other than permission for residential development, being granted under section 26 of the Local Government (Planning and Development) Act, 1963, in respect of the land;

'residential development' includes any development which is ancillary to the development and which is necessary for the proper planning and development of the area in question.'.

Amendment of section 372L (interpretation (Chapter 8)) of Taxes Consolidation Act, 1997.

4.—Section 372L (inserted by section 77 of the Finance Act, 1998) of the Taxes Consolidation Act, 1997, is hereby amended by the substitution of the following for the definition of "qualifying period":

“‘qualifying period’ means—

(a) for the purposes of sections 372M, 372N and 372O, the period commencing on such day as the Minister for Finance may by order appoint and ending on the 31st day of December, 2001, and



(b) for the purposes of sections 372P, 372Q, 372R and 372S, Pt.1 S.4 the period commencing on the 1st day of June, 1998, and ending on the 31st day of December, 2001;”.

PART 2

Stamp Duties

5.—In this Part—

Interpretation  
(Part 2).

“the Act of 1891” means the Stamp Act, 1891;

“the Commissioners” means the Revenue Commissioners;

“the First Schedule” means the First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Act of 1891.

6.—(1) Subject to *subsection (2)*, this Part shall have effect as respects instruments executed on or after the 23rd day of April, 1998. Commencement  
(Part 2).

(2) *Sections 11, 12 and 14* shall not apply as respects any instrument executed prior to the 1st day of January, 1999, where the instrument contains a statement in such form as the Commissioners may specify, certifying that the instrument was executed in pursuance of a contract which was evidenced in writing prior to the 23rd day of April, 1998.

(3) The furnishing of an incorrect certificate for the purposes of *subsection (2)* shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 94 of the Finance Act, 1983.

7.—The First Schedule is hereby amended—

Amendment of  
First Schedule.

(a) by the substitution of the Heading set out in *Part 1* of the *Schedule* for the Heading (as amended by the Finance Act, 1997) “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance”, and

(b) by the substitution of the subparagraphs set out in *Part 2* of the *Schedule* for subparagraph (a) of paragraph (3) (inserted by the Finance Act, 1997) of the Heading “LEASE”.

8.—Section 4 of the Act of 1891 is hereby amended by the insertion of the following paragraph after paragraph (b):

Amendment of  
section 4  
(instruments to be  
separately charged  
with duty in certain  
cases) of Act of  
1891.

“(c) Without prejudice to the generality of paragraphs (a) and (b), where the consideration (other than rent) for the sale or lease of any property is partly attributable to residential property and partly attributable to property which is not residential property the instrument of conveyance or transfer or lease shall be chargeable to *ad valorem* stamp duty on the basis that it is a separate conveyance or transfer or lease of residential property to the extent that that consideration is attributable to residential property and also a separate conveyance or transfer or lease of

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property which is not residential property to the extent that that consideration is attributable to property which is not residential property.”.

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

**9.**—Section 58 of the Act of 1891 is hereby amended by the substitution of the following subsection for subsection (1A) (inserted by the Finance Act, 1997):

“(1A) Where—

- (a) any property which consists partly of an interest in residential property is sold to any person and the sale (hereinafter in this subsection referred to as ‘the first-mentioned sale’) does not form part of a larger transaction or of a series of transactions, or
- (b) the sale to any person of property consisting in whole or in part of such an interest forms part of a larger transaction or of a series of transactions,

the consideration attributable to the first-mentioned sale and the aggregate consideration (other than rent) attributable to that larger transaction or series of transactions, as the case may be, shall be apportioned, on such basis as is just and reasonable, as between that interest in residential property and the other property or part concerned, and that aggregate consideration shall likewise be apportioned as between each other such interest (if any) comprised in that larger transaction or series of transactions and the other property or parts concerned, and notwithstanding the amount or value of the consideration set forth in any instrument—

- (i) the consideration so apportioned to that interest shall be deemed to be the amount or the value of the consideration for the sale which is attributable to that interest and the consideration so apportioned to the aggregate of all such interests comprised in that larger transaction or series of transactions shall be deemed to be the amount or value of that aggregate consideration which is attributable to residential property, and
- (ii) the consideration so apportioned to the other property or part or parts concerned shall be deemed to be the amount or value of the consideration for the sale, or of that aggregate consideration, as the case may be, which is attributable to property which is not residential property.”.

Amendment of section 77 (directions as to duty in certain cases) of Act of 1891.

**10.**—Section 77 of the Act of 1891 is hereby amended by the substitution of the following subsection for subsection (6) (inserted by the Finance Act, 1997):

“(6) Where—

- (a) any property which consists partly of an interest in residential property is leased to any person and that lease (hereinafter in this subsection referred to as ‘the first-mentioned lease’) does not form part of a larger transaction or of a series of transactions, or

- (b) the lease to any person of property consisting in whole Pt.2 S.10  
or in part of such an interest forms part of a larger  
transaction or of a series of transactions,

the consideration attributable to the first-mentioned lease and the aggregate consideration (other than rent) attributable to that larger transaction or series of transactions, as the case may be, shall be apportioned, on such basis as is just and reasonable, as between that interest in residential property and the other property or part concerned, and that aggregate consideration shall likewise be apportioned as between each other such interest (if any) comprised in that larger transaction or series of transactions and the other property or parts concerned, and notwithstanding the amount or value of the consideration set forth in any instrument—

- (i) the consideration so apportioned to that interest shall be deemed to be the amount or the value of the consideration for the lease which is attributable to that interest and the consideration so apportioned to the aggregate of all such interests comprised in that larger transaction or series of transactions shall be deemed to be the amount or value of that aggregate consideration which is attributable to residential property, and
- (ii) the consideration so apportioned to the other property or part or parts concerned shall be deemed to be the amount or value of the consideration for the lease, or of that aggregate consideration, as the case may be, which is attributable to property which is not residential property.”.

**11.—Section 49 of the Finance Act, 1969, is hereby amended—**

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

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

“(1) Subject to subsection (2B) of this section, an instrument giving effect to the purchase of a dwellinghouse or apartment upon the erection thereof shall be exempt from all stamp duties.”,

- (b) in subsection (2B) (inserted by the Finance Act, 1996) by the substitution in paragraph (a) of the following subparagraphs for subparagraph (i):

“(i) the instrument gives effect to the purchase of a dwellinghouse or apartment upon the erection thereof, and

- (ia) until the expiration of the period of 5 years commencing on the date of the execution of the instrument or the subsequent sale (other than a sale the contract for which, if it were a written conveyance, would not, apart from section 50 of the Finance Act, 1979, be charged with full *ad valorem* duty or a sale to a company under the control of the vendor or of any person entitled to a beneficial interest in the dwellinghouse or apartment immediately prior to the sale or to a company which would, in relation to a notional gift of shares

in that company taken, immediately prior to the sale, by any person so entitled, be under the control of the donee or successor within the meaning of section 16 of the Capital Acquisitions Tax Act, 1976, irrespective of the shares the subject-matter of the notional gift) of the dwellinghouse or apartment concerned, whichever event first occurs, that dwellinghouse or apartment will be occupied as the only or principal place of residence of the purchaser, or if there be more than one purchaser, of any one or more of the purchasers or of some other person in right of the purchaser or, if there be more than one purchaser, of some other person in right of any one or more of the purchasers and that no person, other than by virtue of a title prior to that of the purchaser, will derive any rent or payment in the nature of rent for the use of that dwellinghouse or apartment, or of any part of it, during that period, and”,

and

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

“(aa) Where, in relation to an instrument which is exempted from stamp duty by virtue of subsection (1) and at any time during the period referred to in paragraph (a)(ia), some person, other than by virtue of a title prior to that of the purchaser, derives any rent or payment in the nature of rent for the use of the dwellinghouse or apartment concerned, or of any part of it, the purchaser, or where there be more than one purchaser, each such purchaser, shall—

(i) jointly and severally become liable to pay to the Revenue Commissioners a fine equal to the amount of the duty which would have been charged in the first instance if the dwellinghouse or apartment had been conveyed or transferred or leased by an instrument to which this section had not applied together with interest on that amount charged at a rate of 1 per cent per month or part of a month from the date when the rent or payment is first received to the date the fine is remitted, and

(ii) the person who receives the rent or payment shall, within 6 months after the date of the payment, notify the payment to the Revenue Commissioners on a form provided, or approved of, by them for the purposes of this section, unless that person is already aware that the Revenue Commissioners have already received such a notification from another source.”.

**12.**—Section 112 of the Finance Act, 1990, is hereby amended— Pt.2

(a) in subsection (1) (inserted by the Finance Act, 1993) by the substitution of the following paragraphs for paragraphs (a) and (b):

Amendment of section 112 (stamp duty on transfers of building land) of Finance Act, 1990.

“(a) in the case of such sale, under the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ in the First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Stamp Act, 1891, as if the property concerned were residential property on an amount equal to the aggregate of—

(i) any consideration paid in respect of the sale of that land, and

(ii) any consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land;

(b) in the case of such lease, under subparagraph (a) of paragraph (3) of the Heading ‘LEASE’ in the First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Stamp Act, 1891, as if the property concerned were residential property on an amount equal to the aggregate of—

(i) any consideration (other than rent) paid in respect of the lease of that land, and

(ii) any consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land.”,

and

(b) in paragraph (a) of subsection (3) by the substitution of “the aggregate consideration which is chargeable under subsection (1)” for “such aggregate consideration”.

**13.**—Section 121 of the Finance Act, 1997, is hereby amended in subsection (2) by the deletion of the proviso thereto.

Amendment of section 121 (surcharges) of Finance Act, 1997.

**14.**—(1) (a) Where, in relation to an instrument to which this subsection applies—

Relief from stamp duty for certain new houses or apartments.

(i) the instrument gives effect to the purchase of a dwellinghouse or apartment upon the erection thereof and section 49 of the Finance Act, 1969, and section 112 (as amended by this Act) of the Finance Act, 1990, do not apply, the consideration (other than rent) for the sale shall for the purposes of *ad valorem* duty be treated as being reduced by 75 per cent, and

- (ii) the instrument is one to which section 112 (as amended by this Act) of the Finance Act, 1990, applies, that section shall apply to that instrument as if the following paragraphs were substituted for paragraphs (a) and (b) of subsection (1) of that section and *paragraph (b) of section 12* did not apply:
- “(a) in the case of such sale, under the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities, or a policy of insurance, or a policy of life insurance’ in the First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Stamp Act, 1891, as if the property concerned were residential property on an amount which is the greater of—
- (i) any consideration paid in respect of the sale of that land, and
  - (ii) 25 per cent of the aggregate of the consideration at subparagraph (i) and the consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land;
- (b) in the case of such lease, under the Heading ‘LEASE’ in the First Schedule (as amended by the Finance Act, 1970, and subsequent enactments) to the Stamp Act, 1891, as if the property concerned were residential property on an amount which is the greater of—
- (i) any consideration (other than rent) paid in respect of the lease of that land, and
  - (ii) 25 per cent of the aggregate of the consideration at subparagraph (i) and the consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land.”.

(b) This subsection applies to an instrument which contains a statement, in such form as the Commissioners may specify, certifying that—

    - (i) the instrument—
      - (I) gives effect to the purchase of a dwellinghouse or apartment upon the erection thereof and that section 49 of the Finance Act, 1969, and section 112 (as amended by this Act) of the Finance Act, 1990, do not apply, or

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(II) is one to which section 112 (as amended by Pt.2 S.14 this Act) of the Finance Act, 1990, applies,

and

- (ii) until the expiration of the period of 5 years commencing on the date of the execution of the instrument or the subsequent sale (other than a sale the contract for which, if it were a written conveyance, would not, apart from section 50 of the Finance Act, 1979, be charged with full *ad valorem* duty or a sale to a company under the control of the vendor or of any person entitled to a beneficial interest in the dwellinghouse or apartment immediately prior to the sale or to a company which would, in relation to a notional gift of shares in that company taken, immediately prior to the sale, by any person so entitled, be under the control of the donee or successor within the meaning of section 16 of the Capital Acquisitions Tax Act, 1976, irrespective of the shares the subject-matter of the notional gift) of the dwellinghouse or apartment concerned, whichever event first occurs, that dwellinghouse or apartment will be occupied as the only or principal place of residence of the purchaser, or if there be more than one purchaser, of any one or more of the purchasers or of some other person in right of the purchaser or, if there be more than one purchaser, of some other person in right of any one or more of the purchasers and that no person, other than by virtue of a title prior to that of the purchaser, will derive any rent or payment in the nature of rent for the use of that dwellinghouse or apartment, or of any part of it, during that period.”.

(2) Where *subsection (1)* applies to an instrument and at any time during the period referred to in *paragraph (b)(ii)* of that subsection, some person, other than by virtue of a title prior to that of the purchaser, derives any rent or payment in the nature of rent for the use of the dwellinghouse or apartment concerned, or of any part of it, the purchaser, or where there be more than one purchaser, each such purchaser, shall—

- (a) jointly and severally become liable to pay to the Commissioners a fine equal to the difference between the amount of the duty which would have been charged in the first instance if the dwellinghouse or apartment had been conveyed or transferred or leased by an instrument to which *subsection (1)* had not applied and the amount of duty which was actually charged together with interest on that amount charged at a rate of 1 per cent per month or part of a month from the date when the rent or payment is first received to the date the fine is remitted, and
- (b) the person who receives the rent or payment shall, within 6 months after the date of the payment, notify the payment to the Commissioners on a form provided, or approved of, by them for the purposes of this section, unless that person is already aware that the Commissioners have already received such a notification from another source.

## PART 3

## Miscellaneous

Care and management of taxes and duties.

**15.**—All taxes and duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

Short title and construction.

**16.**—(1) This Act may be cited as the Finance (No. 2) Act, 1998.

(2) *Part 1* (so far as relating to income tax) shall be construed together with the Income Tax Acts and (so far as relating to corporation tax) shall be construed together with the Corporation Tax Acts and (so far as relating to capital gains tax) shall be construed together with the Capital Gains Tax Acts.

(3) *Part 2* (so far as relating to stamp duties) shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(4) 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.

(5) 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.

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

Section 7.

## SCHEDULE

## Stamp Duty on Instruments

## Part 1

*Conveyance or Transfer on Sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance*

“CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.

(1) Where the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £60,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to residential property, or

(b) partly attributable to residential property,



and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £60,000:

for the consideration which is attributable to residential property ... .. Exempt

(2) Where paragraph (1) does not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £100,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £100,000:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £3.00

(3) Where paragraphs (1) and (2) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £170,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £170,000:

Sch. for every £100, or fractional part of £100, of the consideration which is attributable to residential property... .. £4.00

(4) Where paragraphs (1) to (3) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £250,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £250,000:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property... .. £5.00

(5) Where paragraphs (1) to (4) do not apply and the amount or value of the consideration for the sale which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £500,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £500,000:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property... .. £7.00

(6) Where paragraphs (1) to (5) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to residential property:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £9.00

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(7) Where the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £5,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £5,000:

for the consideration which is attributable to property which is not residential property ... .. Exempt

(8) Where paragraph (7) does not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £10,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £10,000:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £1.00

(9) Where paragraphs (7) and (8) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £15,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or

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value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £15,000:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £2.00

(10) Where paragraphs (7) to (9) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £25,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £25,000:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £3.00

(11) Where paragraphs (7) to (10) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £50,000 and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

- (a) wholly attributable to property which is not residential property, or
- (b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £50,000:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £4.00

(12) Where paragraphs (7) to (11) do not apply and the amount or value of the consideration for the sale which is attributable to property which is not residential property does not exceed £60,000

and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

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(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to property which is not residential property exceeds £60,000:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £5.00

(13) Where paragraphs (7) to (12) do not apply and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to property which is not residential property, or

(b) partly attributable to residential property:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £6.00

(14) Where paragraphs (7) to (13) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to property which is not residential property:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £9.00

(15) Where in the case of a conveyance or transfer on sale or in the case of a conveyance or transfer operating as a voluntary disposition *inter vivos* the instrument contains a certificate by the party to whom the property is being conveyed or transferred to the effect that the person becoming entitled to the entire beneficial interest in the property (or, where more than one person becomes entitled to a beneficial interest therein, each of them) is related to the person or each of the persons immediately theretofore entitled to the entire beneficial interest in the property in one or other of the following ways, that is to say, as a lineal descendant, parent, grandparent, step-parent, husband or wife, brother or sister of a parent or brother or sister, or lineal descendant of a parent, husband or wife or brother or sister:

a duty of an amount equal to one-half of the *ad valorem* stamp duty which, but for the provisions of this paragraph, would be chargeable under this Heading.”.

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## Part 2

*Lease*

“(a) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and—

(i) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £60,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £60,000:

for the consideration which is attributable to residential property	...	...	...	Exempt
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(ii) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £100,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

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and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £100,000 and clause (i) does not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £3.00

- (iii) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £170,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

- (I) wholly attributable to residential property, or

- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £170,000 and clauses (i) and (ii) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £4.00

- (iv) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of

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residential property were considered to be residential property, does not exceed £250,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

- (I) wholly attributable to residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be residential property, exceeds £250,000 and clauses (i) to (iii) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ...	...	£5.00
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- (v) the amount or value of such consideration which is attributable to residential property, or would be so attributable if the contents of residential property were considered to be residential property, does not exceed £500,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

- (I) wholly attributable to residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property, or which would be so attributable if the contents of residential property were considered to be



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residential property, exceeds £500,000 and clauses (i) to (iv) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £7.00

- (vi) the amount or value of such consideration is wholly or partly attributable to residential property and clauses (i) to (v) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to residential property ... .. £9.00

- (aa) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and—

- (i) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £5,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or

- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £5,000:

for the consideration which is attributable to property which is not residential property ... .. Exempt

- (ii) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £10,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

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- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £10,000 and clause (i) does not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £1.00

- (iii) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £15,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £15,000 and clauses (i) and (ii) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £2.00

- (iv) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £25,000 and the lease contains a statement

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certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £25,000 and clauses (i) to (iii) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £3.00

- (v) the amount or value of such consideration which is attributable to property which is not residential property does not exceed £50,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £50,000 and clauses (i) to (iv) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £4.00

- (vi) the amount or value of such consideration which is attributable to

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property which is not residential property does not exceed £60,000 and the lease contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds £60,000 and clauses (i) to (v) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £5.00

- (vii) the instrument contains a statement certifying that the consideration for the lease is, as the case may be—

- (I) wholly attributable to property which is not residential property, or
- (II) partly attributable to residential property,

and clauses (i) to (vi) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £6.00

- (viii) the amount or value of such consideration is wholly or partly attributable to property which is not residential property and clauses (i) to (vii) do not apply:

for every £100, or fractional part of £100, of the consideration which is attributable to property which is not residential property ... .. £9.00.”