

**Relevant Extract from TAXES CONSOLIDATION ACT 1997**  
**" PART 9**  
**PRINCIPAL PROVISIONS RELATING TO RELIEF FOR CAPITAL EXPENDITURE**

**CHAPTER 1**  
**INDUSTRIAL BUILDINGS OR STRUCTURES: INDUSTRIAL BUILDING ALLOWANCES, WRITING-DOWN ALLOWANCES,**  
**BALANCING ALLOWANCES AND BALANCING CHARGES**

**Section 268 Meaning of "industrial building or structure"**

(1) In this Part, **"industrial building or structure"** means a building or structure in use--

(a) for the purposes of a trade carried on in--

(i) a mill, factory or other similar premises, or

(ii) a laboratory the sole or main function of which is the analysis of minerals (including oil and natural gas) in connection with the exploration for, or the extraction of, such minerals,

(b) for the purposes of a dock undertaking,

(c) for the purposes of growing fruit, vegetables or other produce in the course of a trade of market gardening within the meaning of section 654,

(d) for the purposes of the trade of hotel-keeping,

(e) for the purposes of the intensive production of cattle, sheep, pigs, poultry or eggs in the course of a trade other than the trade of farming within the meaning of section 654,

(f) for the purposes of a trade which consists of the operation or management of an airport and which is an airport runway or an airport apron used solely or mainly by aircraft carrying passengers or cargo for hire or reward,

(g) for the purposes of a trade which consists of the operation or management of a nursing home (in this section referred to as a "registered nursing home") within the meaning of section 2 of the Health (Nursing Homes) Act, 1990, being a nursing home which is registered under section 4 of that Act,

(h) for the purposes of a trade which consists of the operation or management of an airport, other than a building or structure to which paragraph (f) relates,

(i) for the purposes of a trade which consists of the operation or management of a convalescent home for the provision of medical and nursing care for persons recovering from treatment in a hospital, being a hospital that provides treatment for acutely ill patients, and in respect of which convalescent home the Health Service Executive is satisfied that the convalescent home satisfies the requirements of sections 4 and 6 of the Health (Nursing Homes) Act, 1990, and any regulations made under section 6 of that Act as if it were a nursing home within the meaning of section 2 of that Act,

(j) for the purposes of a trade which consists of the operation or management of a qualifying hospital,

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

(l) for the purposes of a trade which consists of the operation or management of a qualifying mental health centre,

(m) for the purposes of a trade which consists of the operation or management of a qualifying specialist palliative care unit,

and in particular, in relation to capital expenditure incurred on or after the 6th day of April, 1969, includes any building or structure provided by the person carrying on such a trade or undertaking for the recreation or welfare of workers employed in that trade or undertaking and in use for that purpose.

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

- (a) a company,
- (b) the trustees of a trust,
- (c) an individual who is involved in the operation or management of the qualifying hospital concerned either as an employee or director or in any other capacity, or
- (d) a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer,

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

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

- (a) a company,
- (b) the trustees of a trust,
- (c) an individual who is involved in the operation or management of the qualifying sports injuries clinic concerned either as an employee or director or in any other capacity, or
- (d) a property developer (within the meaning of section 372A), in the case where either such property developer or a person connected with such property developer incurred the capital expenditure on the construction of that building or structure,

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

(1C) In this section "**qualifying mental health centre**" means a centre (within the meaning of section 62 of the Mental Health Act 2001) which--

- (a) is an approved centre for the purposes of the Mental Health Act 2001,
- (b) has the capacity to provide day-patient and out-patient services and accommodation on an overnight basis of not less than 20 in-patient beds,
- (c) provides to the Health Service Executive relevant data, for onward transmission to the Minister for Health and Children and the Minister for Finance, in relation to
  - (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the centre,
  - (ii) the number and nature of the investors that are investing in the centre,
  - (iii) the amount to be invested by each investor, and

(iv) the nature of the structures which are being put in place to facilitate the investment in the centre,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying mental health centres,

(d) undertakes to the Health Service Executive--

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

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

and

(e) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of--

(i) 15 years beginning with the time when the centre was first used, or

(ii) where capital expenditure on the refurbishment of the centre is incurred, 15 years beginning with the time when the centre was first used subsequent to the incurring of that expenditure,

stating that it is satisfied that the centre complies with the conditions mentioned in paragraphs (a), (b), (c) and (d),

and--

(I) subject to paragraph (II), includes any part of the centre which consists of rooms used exclusively for the assessment or treatment of patients, but

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

(1D) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(I) is held by--

(a) a company,

(b) the trustees of a trust,

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

(d) a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer,

then, notwithstanding that subsection, that building or structure shall not, as regards a claim for any allowance under this Part by any such person, be regarded as an industrial building or structure for the purposes of this

Part, irrespective of whether that relevant interest is held by the person referred to in paragraph (a), (b), (c) or (d), as the case may be, in a sole capacity or jointly or in partnership with another person or persons.

(1E) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(m) is held by--

- (a) a company,
- (b) the trustees of a trust,
- (c) an individual who is involved in the operation or management of the unit concerned either as an employee or director or in any other capacity, or
- (d) a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer,

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

(2) In this section, "**dock**" includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and "**dock undertaking**" shall be construed accordingly.

(2A) In this section--

"**qualifying hospital**" means a hospital which

(a) is a private hospital (within the meaning of the Health Insurance Act, 1994 (Minimum Benefits) Regulations, 1996 (SI No 83 of 1996)),

(c) has the capacity to provide and normally provides medical and surgical services to persons every day of the year,

(d) has the capacity to provide--

(i) out-patient services and accommodation on an overnight basis of not less than 70 in-patient beds, or

(ii) day-case and out-patient medical and surgical services and accommodation for such services of not less than 40 beds,

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

(f) contains facilities to provide not less than 5 of the following services:

(i) accident and emergency,

(ii) cardiology and vascular,

(iii) eye, ear, nose and throat,

(iv) gastroenterology,

(v) geriatrics,

(vi) haematology,

(vii) maternity,

- (viii) medical,
- (ix) neurology,
- (x) oncology,
- (xi) orthopaedic,
- (xii) respiratory,
- (xiii) rheumatology,
- (xiv) paediatric, and
- (xv) mental health services (within the meaning of the Mental Health Act 2001),

(fa) in the case of a building or structure which--

- (i) is first used on or after 1 February 2007, or
- (ii) where capital expenditure on the refurbishment of the building or structure is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 February 2007,

provides to the Health Service Executive relevant data, for onward transmission to the Minister for Health and Children and the Minister for Finance, in relation to--

- (I) the amount of the capital expenditure actually incurred on the construction or refurbishment of the building or structure,
- (II) the number and nature of the investors that are investing in the building or structure,
- (III) the amount to be invested by each investor, and
- (IV) the nature of the structures which are being put in place to facilitate the investment in the building or structure,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying hospitals,

(g) undertakes to the Health Service Executive

- (i) to make available annually, for the treatment of persons who have been awaiting in-patient or out-patient hospital services as public patients, not less than 20 per cent of its capacity, subject to service requirements to be specified by the Health Service Executive] in advance and to the proviso that nothing in this subparagraph shall require the Health Service Executive to take up all or any part of the capacity made available to the Health Service Executive by the hospital, and
- (ii) in relation to the fees to be charged in respect of the treatment afforded to any such person, that such fees shall not be more than 90 per cent of the fees which would be charged in respect of similar treatment afforded to a person who has private medical insurance,

and

(h) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of--

- (i) 10 years beginning with the time referred to in section 272(4)(ga)(i), or
- (ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or

(iii) where capital expenditure on the refurbishment of a building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

stating that it is satisfied that the hospital complies with the conditions mentioned in paragraphs (a), (c), (d), (e), (f), (fa) and (g),

and--

(I) [subject to paragraph (II)], includes any part of the hospital which consists of rooms used exclusively for the assessment or treatment of patients, but

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

(2B) In this section "**qualifying sports injuries clinic**" means a medical clinic--

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

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

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

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

(e) which undertakes to the Health Service Executive

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

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

and

(f) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives, during the period of 10 years beginning with the time referred to in section 272(4)(h), an annual certificate in writing stating that it is satisfied that the medical clinic complies with the conditions mentioned in paragraphs (a) to (e),

and--

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

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

(2BA) In this section--

**"palliative care"** means the active total care of patients who suffer from illnesses or diseases which are active, progressive and advanced in nature and which are no longer curable by means of the administration of existing or available medical treatments;

**"qualifying specialist palliative care unit"** means, subject to subsection (2BB), a building or structure--

- (a) which is a hospital, hospice (within the meaning of section 47 (as amended by section 16 of the Public Health (Tobacco)(Amendment) Act 2004) of the Public Health (Tobacco) Act 2002) or similar facility which has palliative care as its main activity,
- (b) which, before entering into a legal commitment for its design, commissioning, construction or refurbishment, is approved by the Health Service Executive, with the consent of the Minister for Health and Children, as being in accordance with national development plans or national needs assessments for palliative care facilities,
- (c) which has the capacity to provide--
  - (i) day-patient and out-patient palliative care services, and
  - (ii) palliative care accommodation on an overnight basis of not less than 20 in-patient beds,
- (d) in respect of which relevant data is provided to the Health Service Executive, for onward transmission to the Minister for Health and Children and the Minister for Finance, in relation to--
  - (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the unit,
  - (ii) the amount, if any, of such expenditure which has been or is to be met directly or indirectly by the State or by any other person by way of grant or other financial assistance,
  - (iii) the number and nature of the investors that are investing in the unit,
  - (iv) the amount to be invested by each investor, and
  - (v) the nature of the structures which are being put in place to facilitate the investment in the unit,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying specialist palliative care units,

(e) in relation to which an undertaking is given to the Health Service Executive--

- (i) to make available annually, for the palliative care of persons who have been awaiting day-patient, in-patient or out-patient palliative care services as public patients, not less than 20 per cent of its capacity, subject to service requirements to be specified by the Health Service Executive in advance and to the proviso that nothing in this subparagraph shall require the Health Service Executive to take up all or any part of the capacity made available to the Health Service Executive by the unit, and
- (ii) in relation to the fees to be charged in respect of the palliative care afforded to any such person, that such fees shall not be more than 90 per cent of the fees which would be charged in respect of similar palliative care afforded to a person who has private medical insurance,

and

- (f) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of--
  - (i) 15 years beginning with the time when the unit was first used, or
  - (ii) where capital expenditure on the refurbishment of the unit is incurred, 15 years beginning with the time when the unit was first used subsequent to the incurring of that expenditure,

stating that it is satisfied that the unit complies with the conditions mentioned in paragraphs (a) to (e).

(2BB)

(a) Subject to paragraphs (b) and (c), a qualifying specialist palliative care unit includes any part of the unit which consists of rooms used exclusively for the assessment, treatment or care of patients.

(b) A qualifying specialist palliative care unit does not include any part of the unit which consists of consultants' rooms or offices.

(c) A qualifying specialist palliative care unit does not include any part of the unit in which a majority of the persons being maintained are being treated for acute illnesses.

(2C) For the purposes of this Part, a building or structure (other than a building or structure which is in use for the purposes of the trade of hotel-keeping) which is in use as--

(a) a guest house and is registered in the register of guest houses kept under the Tourist Traffic Acts 1939 to 2003, or

(b) a holiday hostel and is registered in the register of holiday hostels kept under the Tourist Traffic Acts 1939 to 2003,

shall, as respects capital expenditure incurred on or after 3 February 2005 on its construction (within the meaning of section 270), be deemed to be a building or structure in use for the purposes of the trade of hotel-keeping.

(2D) For the purposes of this Part, a building or structure which is comprised in, and is in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003 shall, as respects capital expenditure incurred on or after 1 January 2008 on its construction (within the meaning of section 270), be deemed to be a building or structure in use for the purposes of the trade of hotel-keeping.

(3) For the purpose of this Part, a building or structure in use as a holiday camp registered in the register of holiday camps kept under the Tourist Traffic Acts 1939 to 2003 or, in relation to capital expenditure incurred on or after the 1st day of July, 1968, a building or structure in use as a holiday cottage and comprised in premises registered in any register of holiday cottages established by the National Tourism Development Authority under any Act of the Oireachtas passed on or after the 29th day of July, 1969, shall, subject to subsection (13), be deemed] to be a building or structure in use for the purposes of the trade of hotel-keeping.

(3A) Subject to subsections (3B) to (3E), in this section "**qualifying residential unit**" means a house which--

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

(b) is--

(i) a single storey house, or

(ii) a house that is [comprised in a building of one or more storeys in relation to which building a fire safety certificate under Part III of the Building Control Regulations 1997 (SI No 496 of 1997) (as amended from time to time) is required, and prior to the commencement of the construction works on the building, is granted by the building control authority (within the meaning of section 2 of the Building Control Act 1990, as amended by the Local Government (Dublin) Act 1993 and the Local Government Act 2001) in whose functional area the building is situated,

where--



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

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

(c) is comprised in a development of not less than 10 qualifying residential units where--

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

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

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

(iv) not less than 20 per cent of those units are made available for renting to persons who are eligible for a rent subsidy from the Health Service Executive, subject to service requirements to be specified by the Health Service Executive in advance and to the condition that nothing in this subparagraph shall require the Health Service Executive board to take up all or any of the units so made available, and

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

and

(d)

(i) is leased to a person and, as the case may be, the spouse of that person--

(I) who is or, as the case may be, are not connected (within the meaning of section 10) with the lessor,

(II) who has or have been selected as the occupant or occupants of the house by the registered nursing home, and

(III) either the person or the spouse of that person has been certified by a person, who is registered in the General Register of Medical Practitioners, as requiring such accommodation by reason of old age or infirmity,

or

(ii) is leased to the registered nursing home on condition that it will be subsequently leased to a person or persons referred to in subparagraph (i) and which is subsequently used for no other purpose other than use by such person or persons.

(3B)

(a) For the purposes of this section "**house**", in relation to a qualifying residential unit, has the same meaning as in section 372AK.

(b) For the purposes only of the making of allowances and charges under this Part but subject to subsection (3C) and sections 270 and 316 (as amended by the Finance Act 2007), as respects capital expenditure incurred in the period commencing on 25 March 2002 and ending on 30 April 2010, a house in use as a qualifying residential unit shall be deemed to be a building in use for the purposes of a trade referred to in subsection (1)(g).

(3C) Subsection (3B) shall not apply in respect of expenditure incurred on the construction of a qualifying residential unit where any part of that expenditure has been or is to be met, directly or indirectly, by grant

assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State.

(3D) Where the relevant interest in relation to capital expenditure incurred on the construction or refurbishment of all qualifying residential units in a development is held by a company (within the meaning of section 4(1)) then subsection (3A) shall apply as if subparagraphs (iv) and (v) of paragraph (c) of that subsection were deleted.

(3E) A house shall not be a qualifying residential unit for the purposes of this section unless--

(a) the following information has been provided to the Health Service Executive, by the person who is entitled to the relevant interest in relation to the capital expenditure incurred on the construction or refurbishment of the house, for onward transmission to the Minister for Health and Children and the Minister for Finance:

- (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the house;
- (ii) the number and nature of the investors that are investing in the house;
- (iii) the amount to be invested by each investor; and
- (iv) the nature of the structures which are being put in place to facilitate the investment in the house,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying residential units,

(b) the Health Service Executive, in consultation with the Minister for Health and Children, gives a certificate in writing after the house is first leased or, where capital expenditure is incurred on the refurbishment of a house, first leased subsequent to the incurring of that expenditure stating that it is satisfied that--

- (i) the house and the development in which it is comprised complies with all the conditions mentioned in paragraphs (a), (b), (c) and (d) of subsection (3A), and
- (ii) the information required in accordance with paragraph (a) of this subsection has been provided,

and

(c) an annual report in writing is provided, by the person who is entitled to the relevant interest in relation to the capital expenditure incurred on the construction or refurbishment of the house, to the Health Service Executive, for onward transmission to the Minister for Health and Children and the Minister for Finance, by the end of each year in the 20 year period referred to in section 272(4)(fa) (inserted by the Finance Act 2007), which--

- (i) confirms whether the house and the development in which it is comprised continue to comply with all the conditions mentioned in paragraphs (a), (b), (c) and (d) of subsection (3A), and
- (ii) provides details of the level of occupation of the house for the previous year including the age of and, as the case may be, the nature of the infirmity of the occupants.

(4) Where capital expenditure is incurred on preparing, cutting, tunnelling or levelling land for the purposes of preparing the land as a site for the installation of machinery or plant, the machinery or plant shall, as regards that expenditure, be treated for the purposes of this Chapter as a building or structure.

(5) For the purposes of this Part, 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 not situated in the State shall not be treated as expenditure on a 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 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 that site on or before the 23rd day of April, 1996,
- (ii) the 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 1st day of July, 1996, and had been completed before the 30th day of September, 1998,

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.

(6) Subsection (1) shall apply in relation to a part of a trade as it applies in relation to a trade but, where part only of a trade complies with the conditions set out in that subsection, a building or structure shall not by virtue of this subsection be an industrial building or structure unless it is in use for the purposes of that part of that trade.

(7)

- (a) In this subsection, "**retail shop**" includes any premises of a similar character where retail trade or business (including repair work) is carried on.

- (b) Notwithstanding anything in subsections (1) to (6) but subject to subsection (8), in this Part, "**industrial building or structure**" does not include any building or structure in use as, or as part of, a dwelling house (other than a holiday cottage referred to in subsection (3) or a qualifying residential unit), retail shop, showroom or office or for any purpose ancillary to the purposes of a dwelling house (other than a holiday cottage referred to in subsection (3) or a qualifying residential unit), retail shop, showroom or office.

(8) Where part of the whole of a building or structure is, and part of the whole of the building or structure is not, an industrial building or structure, and the capital expenditure incurred on the construction of the second-mentioned part is not more than 10 per cent of the total capital expenditure incurred on the construction of the whole building or structure, the whole building or structure and every part of the whole of the building or structure shall be treated as an industrial building or structure.

(9) Subsection (1) shall apply--

- (a) by reference to paragraph (a)(ii), as respects capital expenditure incurred on or after the 25th day of January, 1984,
- (b) by reference to paragraph (e), as respects capital expenditure incurred on or after the 6th day of April, 1971,
- (c) by reference to paragraph (f), as respects capital expenditure incurred on or after the 24th day of April, 1992,
- (d) by reference to paragraph (g), as respects capital expenditure incurred on or after the 3rd day of December, 1997,
- (e) by reference to paragraph (h), as respects capital expenditure incurred--
  - (i) by Dublin Airport Authority on or after the vesting day, and
  - (ii) by any other person on or after the date of the passing of the Finance Act, 1998,
- (f) by reference to paragraph (i), as respects capital expenditure incurred on or after the 2nd day of December, 1998,

(g) by reference to paragraph (j), as respects capital expenditure incurred on or after the date of the coming into operation of section 64 of the Finance Act, 2001,

(h) by reference to paragraph (k), as respects capital expenditure incurred in the period commencing on 15 May 2002 and ending on 31 December 2006 or, where subsection (16) applies, ending on 31 July 2008,

(i) by reference to paragraph (l), as respects capital expenditure incurred on or after the date of the coming into operation of section 36 of the Finance Act 2006, and

(j) by reference to paragraph (m), as respects capital expenditure incurred on or after the date of the coming into operation of section 26 of the Finance Act 2008.

(10) For the purposes of this Part--

**"Dublin Airport Authority"** means the Dublin Airport Authority, public limited company, and includes--

(a) where a day has been appointed under section 5 of the State Airports Act 2004 in respect of the Cork Airport Authority, public limited company, that company, and

(b) where a day has been appointed under the said section 5 in respect of the Shannon Airport Authority, public limited company, that company;

**"vesting day"** means the day appointed by order under section 9(6) of the State Airports Act 2004 in respect of the Dublin Airport Authority and such other day or days as may be appointed by order or orders under section 5 of the State Airports Act 2004 in respect of the Cork Airport Authority, public limited company, and the Shannon Airport Authority, public limited company.

(11) Notwithstanding any other provision of this section, as respects capital expenditure incurred on or after 20 March 2001, a building or structure in use for the purposes of the trade of hotel-keeping shall not be treated as an industrial building or structure where any part of that expenditure has been or is to be met, directly or indirectly, by grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State.

(12) Notwithstanding any other provision of this section, as respects capital expenditure incurred on the construction or refurbishment of a building or structure in respect of which construction or refurbishment first commences on or after 6 April 2001 (being capital expenditure in respect of which but for this subsection a writing-down allowance in excess of 4 per cent would be available under section 272 for a chargeable period), a building or structure in use for the purposes of the trade of hotel-keeping shall not be treated as an industrial building or structure unless, on the making of an application by the person who incurs the capital expenditure on the construction or refurbishment of the building or structure, the National Tourism Development Authority gives a certificate in writing to that person, in relation to that expenditure, stating--

(a) that it has received a declaration from that person as to whether or not that person is--

(i) a small or medium-sized enterprise within the meaning of Annex I to Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the European Communities Treaty to State aid to small and medium-sized enterprises (OJ No L10 of 13 January 2001, p 33), or

(ii) a micro, small or medium-sized enterprise within the meaning of the Annex to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ No L124 of 20 May 2003, p 36),

(b) that the expenditure concerned falls within the meaning of "initial investment" contained in point 4.4 of the "Guidelines on National Regional Aid" (OJ No C 74, 10.3.1998, p 9) prepared by the Commission of the European Communities,

(c) that, in the case of expenditure incurred on or after 1 January 2003 on the construction or refurbishment of a building or structure provided for the purposes of a project which is subject to the notification requirements of--

(i) the "Multisectoral framework on regional aid for large investment projects" (OJ No C 107, 7.4.1998, p.7) prepared by the Commission of the European Communities and dated 7 April 1998, or

(ii) the "Multisectoral framework on regional aid for large investment projects" (OJ No C 70, 19.3.2002, p 8) prepared by the Commission of the European Communities and dated 19 March 2002,

as the case may be, approval of the potential capital allowances involved has been received from that Commission by the Minister for Finance, or by such other Minister of the Government, agency or body as may be nominated for that purpose by the Minister for Finance, and

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

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

(ii) "Community guidelines on State aid for rescuing and restructuring firms in difficulty" (OJ No C 288, 9.10.1999, p 2) prepared by the Commission of the European Communities or, as the case may be, "Community guidelines on State aid for rescuing and restructuring firms in difficulty" (OJ No C244 of 1 October 2004, p 2) prepared by that Commission, or

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

(13)(a) Notwithstanding subsection (3) but subject to paragraphs (b) and (c), a holiday cottage referred to in that subsection shall not, as respects capital expenditure incurred on or after 4 December 2002 on its construction (within the meaning of section 270), be deemed to be a building or structure in use for the purposes of the trade of hotel-keeping.

(b) This subsection shall not apply as respects expenditure incurred on or before 31 December 2006 on the construction or refurbishment of a holiday cottage if--

(i)

(I) a planning application (not being an application for outline permission within the meaning of section 36 of the Planning and Development Act 2000), in so far as planning permission is required, in respect of the holiday cottage is made in accordance with the Planning and Development Regulations 2001 to 2002,

(II) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, is issued by the planning authority in accordance with article 26(2) of the Planning and Development Regulations 2001 (SI No 600 of 2001), and

(III) the application is not an invalid application in respect of which a notice is issued by the planning authority in accordance with article 26(5) of those regulations,

(ii)

(I) a planning application, in so far as planning permission was required, in respect of the holiday cottage was made in accordance with the Local Government (Planning and Development) Regulations 1994 (SI No 86 of 1994), not being an application for outline permission within the meaning of article 3 of those regulations,

(II) an acknowledgement of the application, which confirms that the application was received on or before 10 March 2002, was issued by the planning authority in accordance with article 29(2)(a) of the regulations referred to in clause (I), and

(III) the application was not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 29(2)(b)(i) of those regulations,

or

(iii) where the construction or refurbishment work on the holiday cottage represented by that expenditure is exempted development for the purposes of the Planning and Development Act 2000 by virtue of section 4 of that Act or by virtue of Part 2 of the Planning and Development Regulations 2001 (SI No 600 of 2001) and--

(I) a detailed plan in relation to the development work is prepared,

(II) a binding contract in writing, under which the expenditure on the development is incurred, is in existence, and

(III) work to the value of 5 per cent of the development costs is carried

out, not later than 31 December 2004.

(c) This subsection shall not apply as respects expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a holiday cottage if--

(i) the conditions of subparagraph (i), (ii) or (iii), as the case may be, of paragraph (b) have been satisfied,

(ii) subject to paragraphs (a) and (b) of section 270(7)--

(I) the person who is constructing or refurbishing the holiday cottage has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the holiday cottage, and

(II) the person referred to in clause (I) or, where the holiday cottage is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in clause (I) was satisfied,

(iii) a binding contract in writing under which expenditure on the construction or refurbishment of the holiday cottage is incurred was in existence on or before 31 July 2006, and

(iv) such other conditions, as may be specified in regulations made for the purposes of this subparagraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.

(14) Subject to subsection (15), a building or structure in use for the purposes of the trade of hotel-keeping (but not including a building or structure deemed to be such a building or structure) shall not, as respects capital expenditure incurred on or after 3 February 2005 on its construction (within the meaning of section 270), be treated as an industrial building or structure unless the building or structure is registered in the register of hotels kept under the Tourist Traffic Acts 1939 to 2003.

(15) Subsection (14) shall not apply as respects capital expenditure incurred on or before 31 July 2006 on the construction or refurbishment of a building or structure in use for the purposes of the trade of hotel-keeping if--

(a)

(i) a planning application (not being an application for outline permission within the meaning of section 36 of the Planning and Development Act 2000), in so far as planning permission was required, in respect of the

construction or refurbishment work on the building or structure represented by that expenditure, was made in accordance with the Planning and Development Regulations 2001 to 2004,

(ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, was issued by the planning authority in accordance with article 26(2) of the Planning and Development Regulations 2001 (SI No 600 of 2001), and

(iii) the application was not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 26(5) of those regulations,

(b)

(i) a planning application, in so far as planning permission was required, in respect of the construction or refurbishment work on the building or structure represented by that expenditure, was made in accordance with the Local Government (Planning and Development) Regulations 1994 (SI No 86 of 1994), not being an application for outline permission within the meaning of article 3 of those regulations,

(ii) an acknowledgement of the application, which confirms that the application was received on or before 10 March 2002, was issued by the planning authority in accordance with article 29(2)(a) of the regulations referred to in subparagraph (i), and

(iii) the application was not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 29(2)(b)(i) of those regulations,

(c) where the construction or refurbishment work on the building or structure represented by that expenditure is exempted development for the purposes of the Planning and Development Act 2000 by virtue of section 4 of that Act or by virtue of Part 2 of the Planning and Development Regulations 2001 (SI No 600 of 2001), and--

(i) a detailed plan in relation to the development work was prepared,

(ii) a binding contract in writing, under which the expenditure on the development is incurred, was in existence, and

(iii) work to the value of 5 per cent of the development costs was carried out,

not later than 31 December 2004, or

(d)

(i) the construction or refurbishment of the building or structure is a development in respect of which an application for a certificate under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 was made to the Authority (within the meaning of that Act),

(ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, was issued by that Authority, and

(iii) the application was not an invalid application.

(16) This subsection shall apply in relation to the construction or refurbishment of a qualifying sports injuries clinic where--

(a) the person who is constructing or refurbishing the clinic has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the clinic, and

(b) the person referred to in paragraph (a) or, where the clinic is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.

## **Section 269 Meaning of “the relevant interest”**

(1) Subject to this section, in this Chapter, “the relevant interest”, in relation to any expenditure incurred on the construction of a building or structure, means the interest in that building or structure to which the person who incurred the expenditure was entitled when the person incurred the expenditure.

(2) Where, when a person incurs expenditure on the construction of a building or structure, the person is entitled to 2 or more interests in the building or structure and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Chapter.

(3) An interest shall not cease to be the relevant interest for the purposes of this Chapter by reason of the creation of any lease or other interest to which that interest is subject, and where the relevant interest is a leasehold interest and is extinguished by reason of the surrender of the leasehold interest, or on the person entitled to the leasehold interest acquiring the interest which is reversionary on the leasehold interest, the interest into which that leasehold interest merges shall thereupon become the relevant interest.

## **Section 270 - Meaning of “expenditure on construction of building or structure”**

(1) In this section, “refurbishment”, in relation to a building or structure, means any work of construction, reconstruction, repair or renewal, including the provision of water, sewerage or heating facilities carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of the building or structure.

(2) A reference in this Chapter to expenditure incurred on the construction of a building or structure includes expenditure on the refurbishment of the building or structure, but does not include—

- (a) any expenditure incurred on the acquisition of, or of rights in or over, any land,
- (b) any expenditure on the provision of machinery or plant or on any asset treated for any chargeable period as machinery or plant, or
- (c) any expenditure in respect of which an allowance is or may be made for the same or for any other chargeable period under section 670 or 765(1).

(3) Where a building or structure which is to be an industrial building or structure forms part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the expenditure incurred on the construction of the whole building or number of buildings, as the case may be, for the purpose of determining the expenditure incurred on the construction of the building or structure which is to be an industrial building or structure.

(4) This subsection applies where capital expenditure on the construction or refurbishment of a building or structure (or, in the case of section 843, qualifying expenditure within the meaning of that section) is incurred at any time in the period from 1 January 2006 to 31 July 2008 and the building or structure –

- (a) is, or by virtue of section 268(3) is deemed to be, an industrial building or structure within the meaning of section 268(1)(d),
- (b) is an industrial building or structure within the meaning of section 268(1)(k),
- (c) is a qualifying multi-storey car park within the meaning of section 344,
- (d) is a building or structure to which section 372C applies or a qualifying premises within the meaning of section 372D,



- (e) is a building or structure to which section 372M applies or a qualifying premises within the meaning of section 372N,
- (f) is a qualifying park and ride facility within the 10 meaning of section 372U or a qualifying premises within the meaning of section 372W,
- (g) is a building or structure to which section 372AC applies or a qualifying premises within the meaning of section 372AD,
- (h) is a qualifying premises within the meaning of section 843, or
- (i) is a qualifying residential unit within the meaning of section 268(3A).

(5) Where subsection (4) applies, then, notwithstanding any other provision of the Tax Acts but subject to subsections (6) and (7), the amount of the capital expenditure or, as the case may be, qualifying expenditure referred to in subsection (4) which is to be treated as incurred for the purposes of the making of allowances and charges under this Part (including the making of balancing allowances and charges under section 274 and the calculation of the residue of expenditure under section 277), whether or not those allowances or charges are to be made directly under this Part or under this Part by virtue of the application of any provision of Part 10 or section 843, shall be reduced—

(a) in the case of expenditure incurred in—

(i) where subsection (4)(i) applies, the period from 25 March 2007 to 31 December 2007, and

(ii) in any other case, the period from 1 January 2007 to 31 December 2007, to 75 per cent, and

(b) in the case of expenditure incurred in the period from 1 January 2008 to 31 July 2008, to 50 per cent, of the amount which, apart from this subsection, would otherwise be so treated and, for those purposes, references in the Tax Acts, other than those in section 279 as applied by subsection (6), to expenditure incurred on the construction of a building or structure shall be construed as a reference to such expenditure as reduced in accordance with this subsection.

(6) Where subsections (4) and (5) and, as the case may be, subsection (7) apply in relation to capital expenditure or qualifying expenditure incurred on a building or structure, section 279 shall apply in relation to the building or structure as if—

(a) in subsection (1) of that section, the following were substituted for the definition of ‘the net price paid’:

‘ “the net price paid” means the amount represented by A in the equation—

$$A = B \times \frac{C}{D + E}$$

where—

B is the amount paid by a person on the purchase of the relevant interest in the building or structure,

C is the amount of the expenditure actually incurred on the construction of the building or structure as reduced in accordance with section 270(5) and, as the case may be, section 270(7),

D is the amount of the expenditure actually incurred on the construction of the building or structure, and E is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of section 270(2).’,

(b) in subsection (2) of that section, the following were substituted for paragraph (b):

‘(b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure equal to that expenditure as reduced in accordance with section 270(5) and, as the case may be, section 270(7) or to the net price paid (within the meaning of that term

as applied by section 270(6)(a)) by such person for that interest, whichever is the less;’,  
and

(c) in subsection (3) of that section, the reference to ‘that expenditure or to’ were a reference to ‘that expenditure as reduced in accordance with section 270(5) and, as the case may be, section 270(7) or to’.

(7) (a) This subsection applies to a building or structure to which paragraph (a), paragraph (d) (other than a qualifying premises which fronts on to a qualifying street (within the meaning of section 372A)), paragraph (e) or paragraph (g) of subsection (4) applies and in relation to which building or structure a person must show that the condition in—

(i) where subsection (4)(a) applies, section 268(13)(c)(ii)(I) or, as the case may be, sections 272(9)(b)(i) and 274(1B)(b)(i),

(ii) where subsection (4)(d) applies, section 372A(3)(a),

(iii) where subsection (4)(e) applies, section 372L(3)(a), or

(iv) where subsection (4)(g) applies, section 372AA(3)(a),

was satisfied on or before 31 December 2006.

(b) (i) A person shall not be treated as having satisfied the condition referred to in paragraph (a) in relation to a building or structure unless—

(I) where paragraph (a)(ii) applies, the relevant local authority (within the meaning of section 372A), and

(II) in any other case, the local authority (within the meaning of the Local Government Act 2001),  
in whose administrative area the building or structure is situated, gives a certificate in writing on or before 30 March 2007, to the person constructing or refurbishing the building or structure stating—

(A) that it is satisfied that work to the value of not less than 15 per cent of the actual construction or refurbishment costs of the building or structure involved was carried out on or before 31 December 2006,

(B) the actual amount of the capital expenditure incurred on the construction or refurbishment of the building or structure by 31 December 2006, and

(C) the projected amount of the balance of the capital expenditure (other than that referred to in clause (B)) which is to be incurred on the construction or refurbishment of the building or structure.

(ii) An application for a certificate referred to in subparagraph (i) shall be made on or before 31 January 2007 by the person who is constructing or refurbishing the building or structure.

(iii) In considering whether to give a certificate referred to in subparagraph (i), the relevant local authority or, as the case may be, the local authority shall have regard to guidelines in relation to the giving of such certificates issued by the Department of the Environment, Heritage and Local Government.

(c) Where this subsection applies, the amount of capital expenditure referred to in subsection (4) which is to be treated as incurred in the period from 1 January 2007 to 31 July 2008 for the purposes of the making of allowances and charges (as referred to in subsection (5)) under this Part, shall not exceed the amount which has been certified by the relevant local authority or, as the case may be, the local authority under clause (C) of paragraph (b)(i) in relation to that building or structure.

(d) The provisions of this subsection shall apply prior to the application of the provisions of subsections (5) and (6) and where the provisions of this subsection apply to reduce the amount of capital expenditure which is to be treated as incurred in the period from 1 January 2007 to 31 July 2008, such reduction shall be made in relation to expenditure incurred in the period from 1 January 2008 to 31 July 2008 in priority to the period from 1 January 2007 to 31 December 2007.

(e) Where a building or structure to which this subsection applies is sold by the person who constructed or refurbished the building or structure, such person shall, at the time of such sale, supply the purchaser with a copy of the certificate referred to in paragraph (b)(i) for the purposes of the making of a claim by the purchaser under any of the provisions of this Part.

(8) Where capital expenditure is incurred on or after 1 May 2007 under a contract or agreement which is entered into on or after that date for the construction, refurbishment or development of a qualifying residential unit as is referred to in subsection (4)(i), then—

(a) subsection (4) shall apply as if the reference to ‘31 July 2008’ were a reference to ‘30 April 2010’,

(b) subsection (5) shall apply as if—

(i) the reference to ‘subject to subsections (6) and (7)’ were a reference to ‘subject to subsections (6) to (8)’, and

(ii) the following paragraphs were substituted for paragraphs (a) and (b):

‘(a) in the case of expenditure incurred by a company (within the meaning of section 4(1)) in the period from 1 May 2007 to 30 April 2010, to 75 per cent, and

(b) in the case of expenditure incurred by a person other than a company (within the meaning of section 4(1)) in the period from 1 May 2007 to 30 April 2010, to 50 per cent.

## **Section 271- Industrial building allowances**

(1) In this section—

“industrial development agency” means the Industrial Development Authority, the Shannon Free Airport Development Company Limited or Údarás na Gaeltachta;

“appropriate chargeable period”, in relation to any person who has incurred expenditure on the construction of a building or structure, means the chargeable period related to the expenditure or, if it is later, the chargeable period related to the event (which shall be regarded as an event within the meaning of section 321(2)(b)), where such event is—

(a) the commencement of the tenancy in a case in which the first use to which the building or structure is put is a use by a person occupying it by virtue of a tenancy to which the relevant interest is reversionary, or

(b) in a case to which subsection (2)(b)(ii) refers, the commencement of the tenancy to which the relevant interest is reversionary;

“relevant lease” means a lease to which the relevant interest is reversionary.

(2)

(a) Subject to the Tax Acts, where a person incurs capital expenditure on the construction of a building or structure—

(i) which is to be an industrial building or structure to which subsection (3) applies, and

(ii) which is to be occupied for the purposes of a trade carried on either by the person or by a lessee mentioned in paragraph (b),

there shall be made to the person who incurred the expenditure, for the appropriate chargeable period, an allowance (in this Chapter referred to as an “industrial building allowance”).

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

(i) under a relevant lease, or

(ii) under a lease to which a relevant lease granted to an industrial development agency is reversionary.

(3) This subsection shall apply to—

(a) an industrial building or structure provided—

- (i) before the 23rd day of April, 1996, for use for the purposes of trading operations, or
- (ii) on or after the 23rd day of April, 1996, by a company for use for the purposes of trading operations carried on by the company,

which are relevant trading operations within the meaning of section 445 or 446 but, in relation to capital expenditure incurred on the provision of an industrial building or structure on or after the 6th day of May, 1993, excluding an industrial building or structure provided by a lessor to a lessee other than in the course of the carrying on by the lessor of those relevant trading operations,

(b) an industrial building or structure provided for the purposes of a project approved by an industrial development agency on or before the 31st day of December, 1988, and in respect of the provision of which expenditure was incurred before the 31st day of December, 1995; but, as respects an industrial building or structure provided for the purposes of a project approved by an industrial development agency in the period from the 1st day of January, 1986, to the 31st day of December, 1988, this paragraph shall apply as if the reference to the 31st day of December, 1995, were a reference to the 31st day of December, 1996, and

(c) an industrial building or structure provided for the purposes of a project approved for grant assistance by an industrial development agency in the period from the 1st day of January, 1989, to the 31st day of December, 1990, and in respect of the provision of which expenditure is incurred before the 31st day of December, 1997, or before the 30th day of June, 1998, if such expenditure would have been incurred before the 31st day of December, 1997, but for the existence of circumstances which resulted in legal proceedings being initiated, being proceedings which were the subject of an order of the High Court made before the 1st day of January, 1998 but, as respects an industrial building or structure provided for the purposes of any such project specified in the list referred to in section 133(8)(c)(iv), this paragraph shall apply as if the reference to the 31st day of December, 1997, where it first occurs, were a reference to the 31st day of December, 2002.

(4) An industrial building allowance shall be of an amount equal to—

(a) where the building or structure is to be used for a purpose specified in paragraph (a) or (b) of section 268(1), 50 per cent of the capital expenditure mentioned in subsection (2); but, in the case of a building or structure to which subsection (3)(a) applies, this paragraph shall apply only if that expenditure is incurred before the 25th day of January, 1999,

(b) where the building or structure is to be used for a purpose specified in paragraph (c) or (e) of section 268(1), 20 per cent of the capital expenditure mentioned in subsection (2), and

(c) in any other case, 10 per cent of the capital expenditure mentioned in subsection (2).

(5) Where an industrial building allowance in respect of capital expenditure incurred on the construction of a building or structure to which subsection (3)(c) applies is made under this section for any chargeable period—

(a) no allowance in relation to that capital expenditure shall be made under section 272 for that chargeable period, and

(b) an allowance in relation to that capital expenditure which is to be made under section 272 for any chargeable period subsequent to that chargeable period shall not be increased under section 273.

(6) Notwithstanding any other provision of this section, no industrial building allowance shall be made in respect of any expenditure on a building or structure if the building or structure, when it comes to be used, is not an industrial building or structure, and where an industrial building allowance has been granted in respect of any expenditure on any such building or structure, any necessary additional assessments may be made to give effect to this subsection.

## **Section 272 Writing-down allowances**

(1) A building or structure shall be one to which this section applies only if the capital expenditure incurred on the construction of it has been incurred on or after the 30th day of September, 1956.

(2) Subject to this Part, where--

(a) any person is, at the end of a chargeable period or its basis period, entitled to an interest in a building or structure to which this section applies,

(b) at the end of the chargeable period or its basis period, the building or structure is an industrial building or structure, and

(c) that interest is the relevant interest in relation to the capital expenditure incurred on the construction of that building or structure,

an allowance (in this Chapter referred to as a "**writing-down allowance**") shall be made to such person for that chargeable period.

(3) A writing-down allowance shall be of an amount equal to--

(a) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (a) or (b) of section 268(1)--

(i) 2 per cent of the expenditure referred to in subsection (2)(c), if that expenditure was incurred before the 16th day of January, 1975, or

(ii) 4 per cent of the expenditure referred to in subsection (2)(c), if that expenditure is incurred on or after the 16th day of January, 1975,

(b) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (c) or (e) of section 268(1), 10 per cent of the expenditure referred to in subsection (2)(c),

(c) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d), other than a building or structure to which [paragraph (d), (da) or (db)] relates--

(i) 10 per cent of the expenditure referred to in subsection (2)(c), if that expenditure was incurred before the 27th day of January, 1994,

(ii) 15 per cent of the expenditure referred to in subsection (2)(c), if that expenditure is incurred on or after the 27th day of January, 1994, or

(iii) subject to subsections (8) and (9), 4 per cent of the expenditure referred to in subsection (2)(c), if the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 4 December 2002,

(d) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a holiday cottage, 10 per cent of the expenditure referred to in subsection (2)(c),

(da) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a guest house or a holiday hostel to which section 268(2C) applies, 4 per cent of the capital expenditure on the construction (within the meaning of section 270) of the building or structure which is incurred on or after 3 February 2005,

(db) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003, 4 per cent of the capital expenditure on the construction (within the meaning of section 270) of the building or structure which is incurred on or after 1 January 2008,

(e) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(f), 4 per cent of the expenditure referred to in subsection (2)(c),

(f) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (g) or (i) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c),

(g) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(h), 4 per cent of the expenditure referred to in subsection (2)(c),

(h) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (j) or (k) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c),

(i) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c), and

(j) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (m) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c).

(3A)

(a) This subsection shall apply to a building or structure in existence on

(i) in the case of Dublin Airport Authority, the vesting day, and

(ii) in the case of any other person, the date of the passing of the Finance Act, 1998,

and in use for the purposes of a trade which consists of the operation or management of an airport, not being either machinery or plant or a building or structure to which section 268(1)(f) applies.

(b) For the purposes of this Part, in relation to a building or structure to which this subsection applies, expenditure shall be deemed to have been incurred on--

(i) in the case of Dublin Airport Authority, the vesting day, and

(ii) in the case of any other person, the date of the passing of the Finance Act, 1998,

on the construction of the building or structure of an amount determined by the formula--

$$A - B$$

where--

A is the amount of the capital expenditure originally incurred on the construction of the building or structure, and

B is the amount of the writing-down allowances which would have been made under this section in respect of the capital expenditure referred to in A if the building or structure had at all times been an industrial building or structure within the meaning of section 268(1)(h) and on the assumption that that section had applied as respects capital expenditure incurred before--

(I) in the case of Dublin Airport Authority, the vesting day, and

(II) in the case of any other person, the date of the passing of the Finance Act, 1998.

(3B)

(a) This subsection shall apply to a building or structure to which section 268(1)(f) applies, being a building or structure in existence on the vesting day and vested in Dublin Airport Authority on that day.

(b) For the purposes of this Part, in the case of a building or structure to which this subsection applies, expenditure shall be deemed to have been incurred by Dublin Airport Authority on the vesting day on the construction of the building or structure of an amount determined by the formula--

A - B

where--

A is the amount of the capital expenditure originally incurred on the construction of the building or structure, and

B is the amount of the writing-down allowances which would have been made under this section in respect of the capital expenditure referred to in A for the period to the day before the vesting day if a claim for those allowances had been duly made and allowed.

(4) Where the interest in a building or structure which is the relevant interest in relation to any expenditure is sold while the building or structure is an industrial building or structure, then, subject to any further adjustment under this subsection on a later sale, the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time of the sale, shall be the residue (within the meaning of section 277) of that expenditure immediately after the sale, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired at the date of the sale of the period of--

(a) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (a) or (b) of section 268(1)--

(i) 50 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure was incurred before the 16th day of January, 1975, or

(ii) 25 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 16th day of January, 1975,

(b) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (c) or (e) of section 268(1), 10 years beginning with the time when the building or structure was first used,

(c) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d), other than a building or structure referred to in [paragraph (d), (da) or (db)]

(i) 10 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure was incurred before the 27th day of January, 1994,

(ii) 7 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 27th day of January, 1994, or

(iii) subject to subsections (8) and (9), 25 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 4 December 2002,

(d) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a holiday cottage, 10 years beginning with the time when the building or structure was first used,

(da) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a guest house or a holiday hostel to which section 268(2C) applies, 25 years beginning with the time when the building or structure was first used, in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 3 February 2005,

[(db) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003--

- (i) 25 years beginning with the time when the building or structure was first used, or
  - (ii) where capital expenditure on the refurbishment of the building or structure is incurred, 25 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,
- in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 1 January 2008,

(e) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(f), 25 years beginning with--

- (i) the time when the building or structure was first used, or
- (ii) in the case of a building or structure to which subsection (3B) applies, the vesting day,

(f) subject to paragraph (fa), in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (g) or (i) of section 268(1)

- (i) 7 years beginning with the time when the building or structure was first used, or
- (ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or
- (iii) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

(fa) where subsection (8) of section 270 applies in relation to a qualifying residential unit as is referred to in subsection (4) (i) of that section--

- (i) 20 years beginning with the time when the unit was first used, or
- (ii) where capital expenditure on the refurbishment of the unit is incurred, 20 years beginning with the time when the unit was first used subsequent to the incurring of that expenditure,

(g) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(h), 25 years beginning with--

- (i) the time when the building or structure was first used, or
  - (ii) as respects a building or structure to which subsection (3A) applies--
- (I) in the case of Dublin Airport Authority, the vesting day, and
  - (II) in the case of any other person, the date of the passing of the Finance Act, 1998,

(ga) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (j) of section 268(1)--

- (i) 7 years beginning with the time when the building or structure was first used, or
- (ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or
- (iii) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years



beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

(h) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph

(k) of section 268(1), 7 years beginning with the time when the building or structure was first used,

(j) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1)--

(l) 15 years beginning with the time when the building or structure was first used, or

(ll) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure, and

(j) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (m) of section 268(1)--

(l) 15 years beginning with the time when the building or structure was first used, or

(ll) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.

(5) In ascertaining a writing-down allowance to be made to a person under subsection (4), the residue of expenditure mentioned in that subsection shall, where it exceeds the amount of expenditure incurred by that person in respect of the sale, be taken to be the amount of the expenditure so incurred.

(6) Notwithstanding any other provision of this section, in no case shall the amount of a writing-down allowance made to a person for any chargeable period in respect of any expenditure exceed what, apart from the writing off to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of that chargeable period or its basis period.

(7) For the purposes of this section, where a writing-down allowance has been made to a person for any chargeable period in respect of capital expenditure incurred on the construction of a building or structure within the meaning of paragraph (d) of section 268(1) and at the end of a chargeable period or its basis period the building or structure is not in use for the purposes specified in that paragraph, then, in relation to that expenditure--

(a) the building or structure shall not be treated as ceasing to be an industrial building or structure if, on the cessation of its use for the purposes specified in paragraph (d) of section 268(1), it is converted to use for the purposes specified in paragraph (g) of that section and at the end of the chargeable period or its basis period it is in use for those latter purposes, and

(b) as respects that chargeable period or its basis period and any subsequent chargeable period or basis period of it, the building or structure shall, notwithstanding the cessation of its use for the purposes specified in paragraph (d) of section 268(1), be treated as if it were in use for those purposes if at the end of the chargeable period or its basis period the building or structure is in use for the purposes specified in paragraph (g) of that section.

(8) Subsections (3)(c)(iii) and (4)(c)(iii) (as inserted by the Finance Act 2003) shall not apply as respects capital expenditure incurred on or before 31 December 2006 on the construction or refurbishment of a building or structure if--

(a)

- (i) a planning application (not being an application for outline permission within the meaning of section 36 of the Planning and Development Act 2000), in so far as planning permission is required, in respect of the building or structure is made in accordance with the Planning and Development Regulations 2001 to 2002,
- (ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, is issued by the planning authority in accordance with article 26(2) of the Planning and Development Regulations 2001 (SI No 600 of 2001), and
- (iii) the application is not an invalid application in respect of which a notice is issued by the planning authority in accordance with article 26(5) of those regulations,

(b)

- (i) a planning application, in so far as planning permission was required, in respect of the building or structure was made in accordance with the Local Government (Planning and Development) Regulations 1994 (SI No 86 of 1994), not being an application for outline permission within the meaning of article 3 of those regulations,
- (ii) an acknowledgement of the application, which confirms that the application was received on or before 10 March 2002, was issued by the planning authority in accordance with article 29(2)(a) of the regulations referred to in subparagraph (i), and
- (iii) the application was not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 29(2)(b)(i) of those regulations,

(ba) where the construction or refurbishment work on the building or structure represented by that expenditure is exempted development for the purposes of the Planning and Development Act 2000 by virtue of section 4 of that Act or by virtue of Part 2 of the Planning and Development Regulations 2001 (SI No 600 of 2001) and--

- (i) a detailed plan in relation to the development work is prepared,
- (ii) a binding contract in writing, under which the expenditure on the development is incurred, is in existence, and
- (iii) work to the value of 5 per cent of the development costs is carried out,

not later than 31 December 2004.

or

(c)

- (i) the construction or refurbishment of the building or structure is a development in respect of which an application for a certificate under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 is made to the Authority (within the meaning of that Act),
- (ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, is issued by that Authority, and
- (iii) the application is not an invalid application.

(9) Subsections (3)(c)(iii) and (4)(c)(iii) shall not apply as respects capital expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a building or structure if--

- (a) the conditions of paragraph (a), (b), (ba) or (c), as the case may be, of subsection (8) have been satisfied,
- (b) subject to paragraphs (a) and (b) of section 270(7)--
  - (i) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and

(ii) the person referred to in subparagraph (i) or, where the building or structure is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in subparagraph (i) was satisfied,

(c) a binding contract in writing under which expenditure on the construction or refurbishment of the building or structure is incurred was in existence on or before 31 July 2006, and

(d) such other conditions, as may be specified in regulations made for the purposes of this paragraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.

## **Section 273 Acceleration of writing-down allowances in respect of certain expenditure on certain industrial buildings or structures**

(1) In this section--

**"industrial development agency"** means the Industrial Development Authority, Shannon Free Airport Development Company Limited or Údarás na Gaeltachta;

**"qualifying expenditure"** means capital expenditure incurred on or after the 2nd day of February, 1978, by the person to whom the allowance under section 272 is to be made on the construction of a building or structure which is to be an industrial building or structure occupied by that person for a purpose specified in paragraph (a), (b) or (d) of section 268(1), but excluding such expenditure incurred for the purposes of the trade of hotel-keeping unless it is incurred on the construction of premises which are registered in a register kept by the National Tourism Development Authority under the Tourist Traffic Acts, 1939 to 1995.

(2)

(a) Subject to this section, where for any chargeable period an allowance is to be made under section 272 in respect of qualifying expenditure, the allowance shall, subject to subsection (6) of that section, be increased by such amount as is specified by the person to whom the allowance is to be made and, in relation to a case in which this subsection has applied, any reference in the Tax Acts to an allowance made under section 272 shall be construed as a reference to that allowance as increased under this section.

(b) As respects any qualifying expenditure incurred on or after the 1st day of April, 1988, any allowance made under section 272 and increased under paragraph (a) in respect of that expenditure, whether claimed for one chargeable period or more than one such period, shall not in the aggregate exceed--

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

(ii) if the qualifying expenditure was incurred on or after the 1st day of April, 1989, and before the 1st day of April, 1991, 50 per cent, or

(iii) if the qualifying expenditure was incurred on or after the 1st day of April, 1991, and before the 1st day of April, 1992, 25 per cent,

of the amount of that qualifying expenditure.

(3) Notwithstanding subsection (2), but subject to subsections (4) and (6)--

(a) no allowance made under section 272 in respect of qualifying expenditure incurred on or after the 1st day of April, 1992, shall be increased under this section, and

(b) as respects chargeable periods ending on or after the 6th day of April, 1999, no allowance made under section 272 in respect of qualifying expenditure incurred before the 1st day of April, 1992, shall be increased under this section.

(4) This section shall apply in relation to capital expenditure incurred on the construction of an industrial building or structure to which subsection (5) applies as if subsections (2)(b) and (3) were deleted.

(5) This subsection shall apply to--

(a) an industrial building or structure provided--

(i) before the 23rd day of April, 1996, for use for the purposes of trading operations, or

(ii) on or after the 23rd day of April, 1996, by a company for use for the purposes of trading operations carried on by the company,

which are relevant trading operations within the meaning of section 445 or 446 but, in relation to capital expenditure incurred on the provision of an industrial building or structure on or after the 6th day of May, 1993, excluding an industrial building or structure provided by a lessor to a lessee other than in the course of the carrying on by the lessor of those relevant trading operations,

(b) an industrial building or structure the expenditure on the provision of which was incurred before the 31st day of December, 1995, under a binding contract entered into on or before the 27th day of January, 1988, and

(c) an industrial building or structure provided for the purposes of a project approved by an industrial development agency on or before the 31st day of December, 1988, and in respect of the provision of which expenditure was incurred before the 31st day of December, 1995; but, as respects an industrial building or structure provided for the purposes of a project approved by an industrial development agency in the period from the 1st day of January, 1986, to the 31st day of December, 1988, this paragraph shall apply as if the reference to the 31st day of December, 1995, were a reference to the 31st day of December, 1996.

(6) This section shall apply in relation to capital expenditure incurred on the construction of a building or structure which is to be an industrial building or structure to which subsection (7)(a) applies--

(a) as if in subsection (2)(b)--

(i) the following subparagraph were substituted for subparagraph (ii):

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

and

(ii) subparagraph (iii) were deleted,

and

(b) as if subsection (3) were deleted.

(7)

(a) This subsection shall apply to--

(i) an industrial building or structure provided for the purposes of a project approved for grant assistance by an industrial development agency in the period from the 1st day of January, 1989, to the 31st day of December, 1990, and in respect of the provision of which expenditure is incurred before the 31st day of December, 1997, or before the 30th day of June, 1998, if such expenditure would have been incurred before the 31st day of December, 1997, but for the existence of circumstances which resulted in legal proceedings being initiated,

being proceedings which were the subject of an order of the High Court made before the 1st day of January, 1998; but, as respects an industrial building or structure provided for the purposes of any such project specified in the list referred to in section 133(8)(c)(iv), this paragraph shall apply as if the reference to the 31st day of December, 1997, where it first occurs, were a reference to the 31st day of December, 2002, and

(ii) a building or structure which is to be an industrial building or structure within the meaning of section 268(1)(d) and in respect of the provision of which expenditure was incurred before the 31st day of December, 1995, where a binding contract for the provision of the building or structure was entered into before the 31st day of December, 1990.

(b) Paragraph (a)(ii) shall not apply if the building or structure referred to in that paragraph is not registered within 6 months after the date of the completion of that building or structure in a register kept by the National Tourism Development Authority under the Tourist Traffic Acts, 1939 to 1995, and where by virtue of this section any allowance or increased allowance has been granted, any necessary additional assessments may be made to give effect to this paragraph.

(8) Where for any chargeable period an allowance under section 272 in respect of qualifying expenditure is increased under this section, no allowance under section 271 shall be made in respect of that qualifying expenditure for that or any subsequent chargeable period.

## **Section 274 Balancing allowances and balancing charges**

(1)

(a) Where any capital expenditure has been incurred on the construction of a building or structure in respect of which an allowance has been made under this Chapter, and any of the following events occurs--

(i) the relevant interest in the building or structure is sold,

(ii) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled to the leasehold interest acquiring the interest which is reversionary on the leasehold interest,

(iii) the building or structure is demolished or destroyed or, without being demolished or destroyed, ceases altogether to be used, or

(iv) subject to subsection (2), where consideration (other than rent or an amount treated or, as respects consideration received on or after the 26th day of March, 1997, partly treated as rent under section 98) is received by the person entitled to the relevant interest in respect of an interest which is subject to that relevant interest,

an allowance or charge (in this Chapter referred to as a "**balancing allowance**" or a "**balancing charge**") shall, in the circumstances mentioned in this section, be made to or on, as the case may be, the person entitled to the relevant interest immediately before that event occurs, for the chargeable period related to that event.

(b) Notwithstanding paragraph (a) and subsection (2A)(b), no balancing allowance or balancing charge shall be made by reason of any event referred to in that paragraph occurring more than--

(i) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (a) or (b) of section 268(1)--

(I) 50 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure was incurred before the 16th day of January, 1975, or

(II) 25 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 16th day of January, 1975,

(ii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (c) or (e) of section 268(1), 10 years after the building or structure was first used,

(iia) subject to subparagraph (iib), in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (g) or (i) of section 268(1)--

(I) 10 years after the building or structure was first used, or

(II) as respects a building or structure which is first used on or after 1 February 2007, 15 years after the building or structure was first used, or

(III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years after the building or structure was first used subsequent to the incurring of that expenditure,

(iib) where subsection (8) of section 270 applies in relation to a qualifying residential unit as is referred to in subsection (4) (i) of that section

(i) 20 years after the unit was first used, or

(ii) where capital expenditure on the refurbishment of the unit is incurred, 20 years after the unit was first used subsequent to the incurring of that expenditure,

(iii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d), other than a building or structure to which subparagraph (iv), (iva) or (ivb) relates--

(I) 10 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure was incurred before the 27th day of January, 1994,

(II) 7 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 27th day of January, 1994, or

(III) subject to subsections (1A) and (1B), 25 years after the building or structure was first used, in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 4 December 2002,

(iv) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a holiday cottage, 10 years after the building or structure was first used,

(iva) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a guest house or a holiday hostel to which section 268(2C) applies, 25 years after the building or structure was first used, in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 3 February 2005,

(ivb) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003--

(i) 25 years after the building or structure was first used, or

(ii) where capital expenditure on the refurbishment of the building or structure is incurred, 25 years after the building or structure was first used subsequent to the incurring of that expenditure,

in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 1 January 2008,

(v) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(f), 25 years after--

- (I) the building or structure was first used, or
  - (II) in the case of a building or structure to which section 272(3B) applies, the vesting day, .
- (vi) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(h), 25 years after--
- (I) the building or structure was first used, or
  - (II) as respects a building or structure to which section 272(3A) applies--
  - (A) in the case of Dublin Airport Authority, the vesting day, and
  - (B) in the case of any other person, the date of the passing of the Finance Act, 1998,
- (via) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (j) of section 268(1)--
- (I) 10 years after the building or structure was first used, or
  - (II) as respects a building or structure which is first used on or after 1 February 2007, 15 years after the building or structure was first used, or
  - (III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years after the building or structure was first used subsequent to the incurring of that expenditure,
- (vii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (k) of section 268(1), 10 years after the building or structure was first used,
- (viii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1)--
- (I) 15 years after the building or structure was first used, or
  - (II) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure, and
- (ix) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (m) of section 268(1)--
- (I) 15 years after the building or structure was first used, or
  - (II) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.
- (1A) Subsection (1)(b)(iii)(III) (as inserted by the Finance Act 2003) shall not apply as respects capital expenditure incurred on or before 31 December 2006 on the construction or refurbishment of a building or structure if--
- (a)
- (i) a planning application (not being an application for outline permission within the meaning of section 36 of the Planning and Development Act 2000), in so far as planning permission is required, in respect of the building or structure is made in accordance with the Planning and Development Regulations 2001 to 2002,
  - (ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, is issued by the planning authority in accordance with article 26(2) of the Planning and Development Regulations 2001 (SI No 600 of 2001), and
  - (iii) the application is not an invalid application in respect of which a notice is issued by the planning authority in accordance with article 26(5) of those regulations,

(b)

(i) [a planning application, in so far as planning permission was required, in respect of the building or structure was made in accordance with the Local Government (Planning and Development) Regulations 1994 (SI No 86 of 1994), not being an application for outline permission within the meaning of article 3 of those regulations,

(ii) an acknowledgement of the application, which confirms that the application was received on or before 10 March 2002, was issued by the planning authority in accordance with article 29(2)(a) of the regulations referred to in subparagraph (i), and

(iii) the application was not an invalid application in respect of which a notice was issued by the planning authority in accordance with article 29(2)(b)(i) of those regulations,

(ba) where the construction or refurbishment work on the building or structure represented by that expenditure is exempted development for the purposes of the Planning and Development Act 2000 by virtue of section 4 of that Act or by virtue of Part 2 of the Planning and Development Regulations 2001 (SI No 600 of 2001) and--

(i) a detailed plan in relation to the development work is prepared,

(ii) a binding contract in writing, under which the expenditure on the development is incurred, is in existence, and

(iii) work to the value of 5 per cent of the development costs is carried out,

not later than 31 December 2004.

or

(c)

(i) the construction or refurbishment of the building or structure is a development in respect of which an application for a certificate under section 25(7)(a)(ii) of the Dublin Docklands Development Authority Act 1997 is made to the Authority (within the meaning of that Act),

(ii) an acknowledgement of the application, which confirms that the application was received on or before 31 December 2004, is issued by that Authority, and

(iii) the application is not an invalid application.

(1B) Subsection (1)(b)(iii)(III) shall not apply as respects capital expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a building or structure if--

(a) the conditions of paragraph (a), (b), (ba) or (c), as the case may be, of subsection (1A) have been satisfied,

(b) subject to paragraphs (a) and (b) of section 270(7)--

(i) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and

(ii) the person referred to in subparagraph (i) or, where the building or structure is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in subparagraph (i) was satisfied,

(c) a binding contract in writing under which expenditure on the construction or refurbishment of the building or structure is incurred was in existence on or before 31 July 2006, and

(d) such other conditions, as may be specified in regulations made for the purposes of this paragraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure



compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.

(2) Subsection (1)(a)(iv) shall not apply as respects the relevant interest in a building or structure in use for the purposes of a trade or part of a trade of hotel-keeping where a binding contract for the provision of the building or structure was entered into after the 27th day of January, 1988, and before the 1st day of June, 1988.

(2A)

(a) In this subsection "**relevant facility**" means a building or structure which--

(i) is in use for the purposes of a trade referred to in paragraph (g) of section 268(1),

(ii) is in use as a qualifying residential unit (within the meaning of section 268(3A)) which, by virtue of section 268(3B), is deemed to be a building or structure referred to in subparagraph (i),

(iii) is in use for the purposes of a trade referred to in paragraph (i) of section 268(1),

(iv) is in use for the purposes of a trade referred to in paragraph (j) of section 268(1),

(v) is in use for the purposes of a trade referred to in paragraph (l) (as inserted by the Finance Act 2006) of section 268(1),

(vi) is a qualifying premises (within the meaning of section 843A(1)) which is in use for the purposes of providing the service or services referred to in paragraph (b) of the definition of "qualifying premises" in that section, or

(vii) is in use for the purposes of a trade referred to in paragraph (m) of section 268(1).

(b) Where--

(i) a building or structure is a relevant facility to which subparagraph (i), (ii), (iii), (iv), (v), (vi) or (vii) of paragraph (a) applies,

(ii) an allowance has been made under this Chapter in respect of capital expenditure incurred on the construction or refurbishment of the building or structure, and

(iii) the building or structure concerned ceases to be a relevant facility,

then, subject to paragraph (c), such cessation shall be treated as an event which gives rise to a balancing charge under this section and that balancing charge shall be made on the person entitled to the relevant interest in the building or structure concerned immediately before that event occurs, for the chargeable period related to that event.

(c) Paragraph (b) shall not apply if, within 6 months of the cessation referred to in subparagraph (iii) of that paragraph, the building or structure concerned is again a relevant facility by virtue of the application of any subparagraph of paragraph (a), other than the subparagraph by virtue of which the building or structure was previously treated as a relevant facility.

(3) Where there are no sale, insurance, salvage or compensation moneys, or consideration of the type referred to in subsection (1)(a)(iv), or where the residue of the expenditure immediately before the event exceeds those moneys or that consideration, a balancing allowance shall be made, and the amount of that allowance shall be the amount of that residue or, as the case may be, of the excess of that residue over those moneys or that consideration; but this subsection shall not apply in the case of consideration of the type referred to in subsection (1)(a)(iv) which is received on or after 5 March 2001.

(4) Where the sale, insurance, salvage or compensation moneys, or consideration of the type referred to in subsection (1)(a)(iv), exceed the residue, if any, of the expenditure immediately before the event, a balancing

charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the residue is nil, to those moneys or that consideration.

(5)

(a) In this subsection, "**the relevant period**" means the period beginning when the building or structure was first used for any purpose and ending--

(i) if the event giving rise to the balancing allowance or balancing charge occurs on the last day of a chargeable period or its basis period, on that day, or

(ii) in any other case, on the latest date before that event which is the last day of a chargeable period or its basis period;

but where before that event the building or structure has been sold while an industrial building or structure, the relevant period shall begin on the day following that sale or, if there has been more than one such sale, the last such sale.

(b) Where a balancing allowance or a balancing charge is to be made to or on a person, and any part of the relevant period is not comprised in a chargeable period for which a writing-down allowance has been made to such person or is not comprised in the basis period for such chargeable period, the amount of the balancing allowance or, as the case may be, the amount on which the balancing charge is to be made shall be reduced in the proportion which the part or parts so comprised bears to the whole of the relevant period.

(c) Notwithstanding paragraph (b), where but for section 272(6) or 321(5) a writing-down allowance would have been made to a person for any chargeable period, the part of the relevant period comprised in that chargeable period or its basis period shall be deemed for the purposes of this subsection to be comprised in a chargeable period for which a writing-down allowance was made to the person.

(6) Where a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of its use as a holiday cottage ceases to be comprised in premises registered in a register referred to in section 268 in such circumstances that apart from this subsection this section would not apply in relation to the building or structure, the relevant interest in the building or structure shall for the purposes of this Chapter (other than section 272(4)) be deemed on such cesser to have been sold while the building or structure was an industrial building or structure and the net proceeds of the sale shall be deemed for those purposes to be an amount equal to the capital expenditure incurred on the construction of the building or structure.

(7) Where a balancing charge is made under this section by virtue of subsection (6) and the relevant interest in the building or structure is not subsequently sold by the person on whom the charge is made while the building or structure is not an industrial building or structure, such person shall, if the building or structure again becomes comprised in a premises registered in a register referred to in section 268, be treated for the purposes of this Chapter as if, at the time of the cesser referred to in subsection (6), such person were the buyer of the relevant interest deemed under that subsection to have been sold.

(8) Notwithstanding any other provision of this section, in no case shall the amount on which a balancing charge is made on a person in respect of any expenditure on the construction of a building or structure exceed the amount of the industrial building allowance, if any, made to such person in respect of that expenditure together with the amount of any writing-down allowances made to such person in respect of that expenditure for chargeable periods which end on or before the date of the event giving rise to the charge or, as the case may be, for chargeable periods for which the basis periods end on or before that date.

## **Section 275 Restriction of balancing allowances on sale of industrial building or structure**

(1) In this section--

**"inferior interest"** means any interest in or right over the building or structure in question, whether granted by the relevant person or by someone else;

**"premium"** includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits which is to be computed by reference to that sum under section 98;

**"capital consideration"** means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment;

**"rent"** includes any consideration which is not capital consideration;

**"commercial rent"** means such rent as might reasonably be expected to have been required in respect of the inferior interest in question, having regard to any premium payable for the grant of the interest, if the transaction had been at arm's length.

(2) This section shall apply where--

- (a) the relevant interest in a building is sold subject to an inferior interest,
- (b) by virtue of the sale a balancing allowance under section 274 would apart from this section be made to or for the benefit of the person (in this section referred to as **"the relevant person"**) who was entitled to the relevant interest immediately before the sale, and
- (c) either--
  - (i) the relevant person, the person to whom the relevant interest is sold and the grantee of the inferior interest, or any 2 of them, are connected with each other, or
  - (ii) it appears with respect to the sale or the grant of the inferior interest, or with respect to transactions including the sale or grant, that the sole or main benefit which but for this section might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under this Chapter.

(3) For the purposes of section 274, the net proceeds to the relevant person of the sale--

- (a) shall be taken to be increased by an amount equal to any premium receivable by the relevant person for the grant of the inferior interest, and
- (b) where no rent or no commercial rent is payable in respect of the inferior interest, shall be taken to be the sum of--
  - (i) what those proceeds would have been if a commercial rent had been payable and the relevant interest had been sold in the open market, and
  - (ii) any amount to be added under paragraph (a);

but the net proceeds of the sale shall not by virtue of this subsection be taken to be greater than such amount as will secure that no balancing allowance is to be made.

(4) Where subsection (3) operates in relation to a sale to deny or reduce a balancing allowance in respect of any expenditure, the residue of that expenditure immediately after the sale shall be calculated for the purposes of this Chapter as if that balancing allowance had been made or, as the case may be, had not been reduced.

(5) Where the terms on which the inferior interest is granted are varied before the sale of the relevant interest, any capital consideration for the variation shall be treated for the purposes of this section as a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.

## **Section 276 Application of sections 272 and 274 in relation to capital expenditure on refurbishment**

(1) In this section, "**refurbishment**" means any work of construction, reconstruction, repair or renewal, including the provision or improvement of water, sewerage or heating facilities, carried out in the course of repair or restoration, or maintenance in the nature of repair or restoration, of a building or structure.

(2) Notwithstanding any other provision of the Tax Acts, where on or after the 6th day of April, 1991, any capital expenditure has been incurred on the refurbishment of a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under this Chapter, sections 272 and 274 shall apply as if "**the capital expenditure on refurbishment of the building or structure was incurred**" were substituted for "**the building or structure was first used**" in each place where it occurs in section 272(4) and 274(1)(b).

(3) For the purposes of giving effect to this section in so far as the computation of a balancing allowance or balancing charge is concerned, all such apportionments shall be made as are in the circumstances just and reasonable.

## **Section 277 Writing off of expenditure and meaning of "residue of expenditure"**

(1) For the purposes of this Chapter, any expenditure incurred on the construction of any building or structure shall be treated as written off to the extent and at the times specified in this section, and references in this Chapter to the residue of any such expenditure shall be construed accordingly.

(2) Where an industrial building allowance is made in respect of the expenditure, the amount of that allowance shall be written off at the time when the building or structure is first used.

(3) Where, by reason of the building or structure being at any time an industrial building or structure, a writing-down allowance is made for any chargeable period in respect of the expenditure, the amount of that allowance shall be written off at that time; but, where at that time an event occurs which gives rise or may give rise to a balancing allowance or balancing charge, the amount directed to be written off by this subsection at that time shall be taken into account in computing the residue of that expenditure immediately before that event for the purpose of determining whether any, and if so what, balancing allowance or balancing charge is to be made.

(4)

(a) Where, for any period or periods between the time when the building or structure was first used for any purpose and the time at which the residue of the expenditure is to be ascertained, the building or structure has not been in use as an industrial building or structure, there shall in ascertaining that residue be treated as having been previously written off in respect of that period or those periods amounts equal to writing-down allowances made for chargeable periods of a total length equal to the length of that period, or the aggregate length of those periods, as the case may be, at such rate or rates as would have been appropriate having regard to any sale on which section 272(4) operated.

(b) Where the building or structure was in use as an industrial building or structure at the end of the basis period for any year of assessment before the year 1960-61, an amount equal to 2 per cent of the expenditure shall be treated as written off at the end of the previous year of assessment.

(5) Where on the occasion of a sale a balancing allowance is made in respect of the expenditure, there shall be written off at the time of the sale the amount by which the residue of the expenditure before the sale exceeds the net proceeds of the sale.

(6) Where on the occasion of a sale a balancing charge is made in respect of the expenditure, the residue of the expenditure shall be deemed for the purposes of this Chapter to be increased at the time of the sale by the amount on which the charge is made.

(7) Where, on receipt of consideration of the type referred to in section 274(1)(a)(iv), a balancing allowance is made in respect of the expenditure, there shall be written off at the time of the event giving rise to the balancing allowance or, if later, on the 26th day of March, 1997, the amount by which the residue of the expenditure before that event exceeds that consideration.

## Section 278 Manner of making allowances and charges

- (1) Except in the cases mentioned in this section, any allowance or charge made to or on a person under the preceding provisions of this Part shall be made to or on such person in taxing such person's trade or, as the case may require, in charging such person's income under Case V of Schedule D.
- (2) An industrial building allowance shall be made to a person by discharge or repayment of tax if such person's interest in the building or structure is subject to any lease when the expenditure is incurred or becomes subject to any lease before the building or structure is first used for any purpose but this subsection shall not apply as respects income chargeable under Case V of Schedule D.
- (3) A writing-down allowance shall be made to a person for a chargeable period by means of discharge or repayment of tax if such person's interest is subject to any lease at the end of that chargeable period or its basis period; but this subsection shall not apply as respects income chargeable under Case V of Schedule D.
- (4) A balancing allowance shall be made to a person by means of discharge or repayment of tax if such person's interest is subject to any lease immediately before the event giving rise to the allowance; but this subsection shall not apply as respects income chargeable under Case V of Schedule D.
- (5) A balancing charge shall be made on a person under Case IV of Schedule D if such person's interest is subject to any lease immediately before the event giving rise to the charge and the corresponding income is chargeable under that Case.
- (6) Any allowance which under subsections (1) to (4) is to be made otherwise than in taxing a trade shall be available primarily against the following income--
- (a) where the income (whether arising by means of rent or receipts in respect of premises or easements or otherwise) from the industrial building or structure in respect of the capital expenditure on which the allowance is given is chargeable under Case V of Schedule D, against income chargeable under that Case,
- (b) where the income (whether arising by means of rent or receipts in respect of premises or easements or otherwise) from the industrial building or structure in respect of the capital expenditure on which the allowance is given is chargeable under Case IV of Schedule D, against income chargeable under that Case, or
- (c) income chargeable under Case IV or V of Schedule D respectively which is the subject of a balancing charge.

## Section 279 Purchases of certain buildings or structures

- (1) For the purposes of this section--

**"the net price paid"** means the amount represented by A in the equation--

$$A = B \times \frac{C}{C + D}$$

where--

- B is the amount paid by a person on the purchase of the relevant interest in a building or structure,
- C is the amount of the expenditure actually incurred on the construction of the building or structure, and
- D is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of section 270(2).

(2) Where expenditure is incurred on the construction of a building or structure and, before the building or structure is used or within a period of one year after it commences to be used, the relevant interest in the building or structure is sold, then, if an allowance has not been claimed by any other person in respect of that building or structure under this Chapter--

(a) the expenditure actually incurred on the construction of the building or structure shall be disregarded for the purposes of sections 271, 272, 274 and 277, but

(b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure equal to that expenditure or to the net price paid by such person for that interest, whichever is the less;

but, where the relevant interest in the building or structure is sold more than once before the building or structure is used or within the period of one year after it commences to be used, paragraph (b) shall apply only in relation to the last of those sales.

(3) Where the expenditure incurred on the construction of a building or structure was incurred by a person carrying on a trade which consists, as to the whole or any part of the trade, of the construction of buildings or structures with a view to their sale and, before the building or structure is used or within a period of one year after it commences to be used, such person sells the relevant interest in the building or structure in the course of that trade or, as the case may be, of that part of that trade, subsection (2) shall apply subject to the following modifications--

(a) if that sale is the only sale of the relevant interest before the building or structure is used or within the period of one year after it commences to be used, subsection (2) shall apply as if in paragraph (b) of that subsection "**that expenditure or to**" and "**, whichever is the less**" were deleted, and

(b) if there is more than one sale of the relevant interest before the building or structure is used or within the period of one year after it commences to be used, subsection (2) shall apply as if the reference to the expenditure actually incurred on the construction of the building or structure were a reference to the price paid on that sale.

## **Section 280 Temporary disuse of building or structure**

(1) For the purposes of this Chapter, a building or structure shall not be deemed to cease altogether to be used by reason that it is temporarily out of use and where, immediately before any period of temporary disuse, a building or structure is an industrial building or structure, it shall be deemed to continue to be an industrial building or structure during the period of temporary disuse.

(2)

(a) Notwithstanding any other provision of this Part as to the manner of making allowances and charges but subject to paragraph (b), where by virtue of subsection (1) a building or structure is deemed to continue to be an industrial building or structure while temporarily out of use, then, if--

(i) on the last occasion on which the building or structure was in use as an industrial building or structure, it was in use for the purposes of a trade which has since been permanently discontinued, or

(ii) on the last occasion on which the building or structure was in use as an industrial building or structure, the relevant interest in the building or structure was subject to a lease which has since come to an end,

any writing-down allowance or balancing allowance to be made to any person in respect of the building or structure during any period for which the temporary disuse continues after the discontinuance of the trade or the coming to an end of the lease shall be made by means of discharge or repayment of tax, and any balancing charge to be made on any person in respect of the building or structure during that period shall be made under Case IV of Schedule D.

(b) Where for a chargeable period the person has income chargeable to tax under Case V of Schedule D and at the end of the chargeable period or its basis period the building or structure is one to which paragraph (a) applies, any writing-down allowance or balancing allowance or balancing charge to be made to or on the person in respect of the building or structure shall be made in charging that person's income under Case V of Schedule D.

(3) The reference in this section to the permanent discontinuance of a trade does not include a reference to the happening of any event which by virtue of the Income Tax Acts is to be treated as equivalent to the discontinuance of the trade.

## **Section 281 Special provisions in regard to leases**

(1) Where with the consent of the lessor a lessee of any building or structure remains in possession of that building or structure after the termination of the lease without a new lease being granted to the lessee, that lease shall be deemed for the purposes of this Chapter to continue so long as the lessee remains so in possession.

(2) Where on the termination of a lease a new lease is granted to the lessee consequent on the lessee being entitled by statute to a new lease or in pursuance of an option available to the lessee under the terms of the first lease, this Chapter shall apply as if the second lease were a continuation of the first lease.

(3) Where on the termination of a lease the lessor pays any sum to the lessee in respect of a building or structure comprised in the lease, this Chapter shall apply as if the lease had come to an end by reason of the surrender of the lease in consideration of the payment.

## **Section 282 Supplementary provisions (Chapter 1)**

(1) A person who has incurred expenditure on the construction of a building or structure shall be deemed, for the purposes of any provision of this Chapter referring to such person's interest in the building or structure at the time when the expenditure was incurred, to have had the same interest in the building or structure as such person would have had if the construction of the building or structure had been completed at that time.

(2) Without prejudice to any other provision of this Part relating to the apportionment of sale, insurance, salvage or compensation moneys, the sum paid on the sale of the relevant interest in a building or structure, or any other sale, insurance, salvage or compensation moneys payable in respect of any building or structure, shall for the purposes of this Chapter be deemed to be reduced by an amount equal to so much of that sum or those moneys, as the case may be, as on a just apportionment is attributable to assets representing expenditure other than expenditure in respect of which an allowance may be made under this Chapter.

