

Relevant trading operations. FA84 s16A; FA95 s17(1)(g); FA96 s24; FA97 s9(d) 497.—(1) For the purposes of this Part, “relevant trading operations” means qualifying trading operations (2)(a)(ix)) in respect of which a certifying agency or a certifying Minister, as the case may be (in this section referred to as “the authority”), has given a certificate under subsection (2).

(2) Subject to this section, the authority may, in respect of qualifying trading operations carried on or to be carried on by a company, give a certificate to the company certifying that the authority is satisfied, on the basis of such information as is supplied to the authority by the company or which the authority may reasonably require the company to furnish, that the carrying on of such qualifying trading operations by the company is or will be a bona fide new venture which, having regard to—

(a) the potential for the creation of additional sustainable employment, and

(b) the desirability of minimising the displacement of existing employment,

may be eligible—

(i) in the case of qualifying trading operations referred to in section 496 (2)(a)(v), based on guidelines agreed, with the consent of the Minister for Finance, between the certifying agency and the Minister for Arts, Heritage, Gaeltacht and the Islands or the Minister for Enterprise, Trade and Employment (as may be appropriate in the circumstances), for the payment of the grants or the financial assistance referred to in section 496 (2)(a)(ii) within a reasonable period after the completion of the feasibility study carried out in relation to the trading operations concerned in accordance with section 496 (2)(a)(v), and

(ii) in any other case but subject to subsection (4), based on guidelines agreed—

(I) with the consent of the Minister for Finance, between the certifying agency and the Minister for Arts, Heritage, Gaeltacht and the Islands or the Minister for Enterprise, Trade and Employment or the Minister for the Marine and Natural Resources or the Minister for Tourism, Sport and Recreation (as may be appropriate in the circumstances), or

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

to be grant aided under a scheme of assistance administered by the authority.

(3) The carrying on of qualifying trading operations referred to in subsection (2) by a company shall not be regarded as not being a bona fide new venture by reason only that they were carried on as or as part of a trade by another person at any time before the issue of the eligible shares in respect of which relief is claimed.

(4) A certificate to which subsection (2) relates may be given by—

(a) the Industrial Development Agency (Ireland) in respect of qualifying trading operations referred to in section 496 (2)(a)(iv),

(b) the Minister for Agriculture and Food in respect of qualifying trading operations referred to in section 496 (2)(a)(viii), or

(c) the Minister for Arts, Heritage, Gaeltacht and the Islands in respect of qualifying trading operations referred to in section 496 (2)(a)(xii),

without regard to whether such operations are eligible to be grant-aided but, in considering whether to give such a certificate, the agency or the Minister, as the case may be, shall have regard to such guidelines in relation to the giving of such a certificate as may be agreed—

(i) with the consent of the Minister for Finance, between the agency and the Minister for Enterprise, Trade and Employment, or

(ii) between the Minister for Agriculture and Food or the Minister for Arts, Heritage, Gaeltacht and the Islands (as may be appropriate) and the Minister for Finance.

(5) Bord Fáilte Éireann shall not give a certificate under subsection (2) in a case where the value of a company's interests in land and buildings (excluding fixtures and fittings) is or is intended to be greater than 50 per cent of the value of its assets as a whole.

(6) An authority shall not give a certificate under subsection (2) unless the company concerned undertakes in writing to furnish the authority when requested to do so with such details in relation to the carrying on of the qualifying trading operations as the authority may specify.

(7) (a) For the purposes of this Chapter, as respects a relevant investment made on or after the 10th day of May, 1997, a certificate under subsection (2) may, instead of being given by the authority, be given by a County Enterprise Board ) to a company carrying on or intending to carry on one or more qualifying trading operations mentioned in subparagraphs (i), (ii) and (v) of section 496 (2)(a), and subsections (2) and (6) shall, subject to the modification specified in paragraph (b) and any other necessary modification, apply accordingly.

(b) The modification referred to in paragraph (a) is that for the purposes of this subsection, the guidelines of the kind mentioned in paragraphs (i) and (ii) of subsection (2) shall be agreed between the Minister for Finance and the Minister for Arts, Heritage, Gaeltacht and the Islands or the Minister for Enterprise, Trade and Employment, as may be appropriate in the circumstances.