

Young trained farmers. FA1994 s112 81.—(1) In this section and Schedule 2—

“an interest in land” means an interest which is not subject to any power (whether or not contained in the instrument) on the exercise of which the land, or any part of or any interest in the land, may be revested in the person from whom it was conveyed or transferred or in any person on behalf of such person;

“land” means agricultural land and includes such farm buildings, farm houses and mansion houses (together with the lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the land;

“young trained farmer” means a person in respect of whom it is shown to the satisfaction of the Commissioners—

(a) that such person had not attained the age of 35 years on the date on which the instrument, as respect which relief is being claimed under this section, was executed, and

(b) (i) that such person is the holder of a qualification set out in Schedule 2 and, in the case of a qualification set out in subparagraph (c), (d), (e), (f) or (g) of paragraph 3 or paragraph 4 of that Schedule, is also the holder of a certificate issued by Teagasc certifying that such person has satisfactorily attended a course of training in farm management, the aggregate duration of which exceeded 80 hours, or

(ii) (I) that such person has satisfactorily attended full-time a course at a third-level institution in any discipline for a period of not less than 2 years duration, and

(II) is the holder of a certificate issued by Teagasc certifying satisfactory attendance at a course of training in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours,

or

(iii) if born before 1 January 1968 that such person is the holder of a certificate issued by Teagasc certifying that such person—

(I) has had farming as the principal occupation for a period of not less than 3 years, and

(II) has satisfactorily attended a course of training in either or both agriculture and horticulture, the aggregate duration of which exceeded 180 hours,

and notwithstanding paragraphs (a) and (b), where Teagasc certifies that any other qualification corresponds to a qualification which is set out in Schedule 2, the Commissioners shall, for the purposes of this section, treat that other qualification as if it were the corresponding qualification so set out.

(2) The amount of stamp duty chargeable under or by reference to the heading “CONVEYANCE or TRANSFER on

sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance” in Schedule 1 on any instrument to which this section applies shall be reduced by an amount equal to two-thirds of the amount which would otherwise have been chargeable but where the amount so obtained is a fraction of £1 that amount shall be rounded up to the next £.

(3) This section applies to any instrument which operates as a conveyance or transfer (whether on sale or as a voluntary disposition inter vivos) of an interest in land to a young trained farmer where—

(a) the instrument contains a certificate that this section applies,

(b) a declaration made in writing by the young trained farmer, or each of them if there is more than one, is furnished to the Commissioners when the instrument is presented for stamping, confirming, to the satisfaction of the Commissioners, that it is the intention of such person, or each such person, for a period of not less than 5 years from the date of execution of the instrument to—

(i) spend not less than 50 per cent of that person's normal working time farming the land, and

(ii) retain ownership of the land,

and

(c) the identifying reference number, known as the Revenue and Social Insurance (RSI) Number, of the young trained farmer, or each of them if there is more than one, is furnished to the Commissioners when the instrument is presented for stamping.

(4) Notwithstanding subsection (3), this section shall apply where the property is conveyed or transferred into joint ownership where all the joint owners are young trained farmers or where any of the joint owners is a spouse of another joint owner who is a young trained farmer.

(5) Where this section would have applied to the instrument, except for the fact that a person to whom the land is being conveyed or transferred is not a young trained farmer on the date when the instrument was executed, by reason of not being the holder of one of the qualifications, or an equivalent qualification, specified in Schedule 2 or, in the case of the requirement in paragraph (b)(ii)(I) of the definition of “young trained farmer” in subsection (1), not having attended full-time for the required 2 years' duration, but that such person had completed on that date at least one academic year of the prescribed course leading to an award of such qualification, or the course prescribed in paragraph (b)(ii)(I) of that definition, then—

(a) if such person becomes a holder of such qualification, or satisfactorily attends such course full-time for a period of 2 years, within a period of 3 years from the date of execution of the instrument, the Commissioners shall, on production of the stamped instrument to them within 6 months after the date when such person became the holder of such qualification, or completed the required 2 years' attendance on such course, and on furnishing satisfactory evidence of compliance with this subsection, the declaration and the Revenue and Social Insurance (RSI) Number, as provided for in subsection (3), cancel and refund, without payment of interest on the duty, such duty as would not have been chargeable had this section applied to the instrument when it was first presented for stamping, and

(b) the period of 5 years provided for in subsection (3) in relation to the declaration to be made by such person, as it applies to normal working time, shall be reduced by the period of time that elapsed between the date of the instrument and the date on which such person became the holder of such qualification or completed the required 2 years' attendance on such course.

(6) An instrument to which this section applies and which is stamped with an amount of duty less than the amount which, but for this section, would be chargeable on the instrument shall be deemed not to be duly stamped unless the Commissioners have expressed their opinion on the instrument in accordance with section 20.

(7) (a) If and to the extent that any person to whom land was conveyed or transferred by any instrument in respect of which relief from duty under this section was allowed—

(i) disposes of such land, or part of such land, within a period of 5 years from the date of execution of the instrument, and

(ii) does not replace such land with other land within a period of one year from the date of such disposal,

then such person or, where there is more than one such person, each such person, jointly and severally, shall become liable to pay to the Commissioners a penalty equal to the difference between the amount of the duty which would have been charged in the first instance if the land disposed of had been conveyed or transferred by an instrument to which this section had not applied and the amount of duty which was actually charged, together with interest on the amount of such difference as may so become payable charged at a rate of 1 per cent per month or part of a month from the date of disposal of the land to the date the penalty is remitted.

(b) Where any claim for relief from duty under this section has been allowed and it is subsequently found that a declaration made, or a certificate contained in the instrument, in accordance with subsection (3) was—

(i) untrue in any material particular which would have resulted in the relief afforded by this section not being granted, and

(ii) was made, or was included, knowing same to be untrue or in reckless disregard as to whether it was true or not,

then any person who made such a declaration, or where a false certificate has been included, the person or persons to whom the land is conveyed or transferred by the instrument, jointly and severally, shall be liable to pay to the Commissioners as a penalty an amount equal to the difference between 125 per cent of the duty which would have been charged on the instrument in the first instance had all the facts been truthfully declared and certified and the amount of duty which was actually charged, together with interest on the amount of such difference as may so become payable charged at a rate of 1 per cent per month or part of a month from the date when the instrument was executed to the date the penalty is remitted.

(8) Notwithstanding subsection (7)—

(a) where relief under this section was allowed in respect of any instrument, a disposal by a young trained farmer of part of the land to a spouse for the purpose of creating a joint tenancy in the land, or where the instrument conveyed or transferred the land to joint owners, a disposal by one joint owner to another of any part of the land, shall not be regarded as a disposal to which subsection (7) applies, but on such disposal, such part of the land shall be treated for the purposes of subsection (7) as if it had been conveyed or transferred immediately to the spouse or other joint owner by the instrument in respect of which relief from duty under this section was allowed in the first instance;

(b) a person shall not be liable to more than one penalty under paragraph (b) of subsection (7);

(c) a person shall not be liable to a penalty under paragraph (a) of subsection (7) if and to the extent that such person has paid a penalty under paragraph (b) of subsection (7), and

(d) a person shall not be liable to a penalty under paragraph (b) of subsection (7), if and to the extent that such person has paid a penalty under paragraph (a) of subsection (7).

(9) This section shall apply as respects instruments executed on or before 31 December 1999.