

Certain trading operations carried on in Custom House Docks Area. FA80 s39B(1) to (6), (7)(a) and (b), (8) and (9); FA87 s30; FA91 s34; FA92 s53; FA94 s53; FA95 s65; FA97 s28 446.—(1) In this section—

“the Area” means, subject to subsection (12), the Custom House Docks Area within the meaning of section 322;

“company” means any company carrying on a trade;

“the Minister” means the Minister for Finance;

“qualified company” means a company to which the Minister has given a certificate under subsection (2);

“relevant trading operations” means trading operations specified in a certificate given by the Minister under subsection (2);

“trading operation” means any trading operation which apart from this section is not the manufacture of goods for the purposes of this Part.

(2) Subject to subsections (7) and (9), the Minister may give a certificate certifying that such trading operations of a company as are specified in the certificate are, with effect from a date specified in the certificate, relevant trading operations for the purposes of this section, and any certificate so given shall, unless it is revoked under subsection (4), (5) or (6), remain in force until the 31st day of December, 2005.

(3) A certificate given under subsection (2) may be given either without conditions or subject to such conditions as the Minister considers proper and specifies in the certificate.

(4) Where in the case of a company in relation to which a certificate under subsection (2) has been given—

(a) the trade of the company ceases or, except in the case of a company in relation to which the Minister has, in accordance with subsection (9), given a certificate under subsection (2) and which has not yet commenced to carry on in the Area the trading operation or trading operations specified in the certificate, becomes carried on wholly outside the Area, or

(b) the Minister is satisfied that the company has failed to comply with any condition subject to which the certificate was given,

the Minister may, by notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the notice.

(5) Where, in the case of a company in relation to which a certificate under subsection (2) has been given, the Minister is of the opinion that any activity of the company has had, or may have, an adverse

effect on the use or development of the Area or is otherwise inimical to the development of the Area, then—

(a) the Minister may, by notice in writing served by registered post on the company, require the company to desist from such activity with effect from such date as may be specified in the notice, and

(b) if the Minister is not satisfied that the company has complied with the requirements of that notice, the Minister may, by a further notice in writing served by registered post on the company, revoke the certificate with effect from such date as may be specified in the further notice.

(6) Where the Minister and a company in relation to which a certificate under subsection (2) has been given agree to the revocation of that certificate and its replacement by another certificate to be given to the company under subsection (2), the Minister may, by notice in writing served by registered post on the company, revoke the first-mentioned certificate with effect from such date as may be specified in the notice; but this subsection shall not affect the operation of subsection (4) or (5).

(7) Subject to subsection (9), the Minister shall not certify under subsection (2) that a trading operation is a relevant trading operation unless—

(a) it is carried on in the Area,

(b) the Minister is satisfied that it will contribute to the development of the Area as an International Financial Services Centre, and

(c) it is within one or more of the following classes of trading operations—

(i) the provision for persons not ordinarily resident in the State of services, in relation to transactions in foreign currencies, which are of a type normally provided by a bank in the ordinary course of its trade,

(ii) the carrying on on behalf of persons not ordinarily resident in the State of international financial activities, including in particular—

(I) global money-management,

(II) international dealings in foreign currencies and in futures, options and similar financial assets which are denominated in foreign currencies,

(III) dealings in bonds, equities and similar instruments which are denominated in foreign currencies,

(IV) insurance and related activities, or

(V) the management of the whole or part of the investments and other activities of a specified collective investment undertaking ),

(iii) the provision for persons not ordinarily resident in the State of services of, or facilities for,

processing, control, accounting, communication, clearing, settlement or information storage in relation to financial activities,

(iv) dealing by a company in commodity futures or commodity options on behalf of persons not ordinarily resident in the State—

(I) other than on behalf of persons who—

(A) carry on a trade in which commodities of a type which are the subject of the futures or options, as the case may be, are used in the course of the carrying on of the trade, or

(B) would be regarded as connected with a person who carries on such a trade,

or

(II) where dealing in futures and options, some or all of which are commodity futures or commodity options, as the case may be, is the principal relevant trading operation carried on by the company,

(v) the development or supply of computer software for use in the provision of services or facilities of a type referred to in subparagraph (iii) or for the reprocessing, analysing or similar treatment of information in relation to financial activities, or

(vi) trading operations similar to or ancillary to any of those operations described in the preceding provisions of this section in relation to which the Minister is of the opinion that they contribute to the use of the Area as an International Financial Services Centre.

(8) References in subsection (7) to any service or facility provided for, or any activity carried on on behalf of, a person not ordinarily resident in the State shall not include any such service or facility provided for, or any activity carried on on behalf of, the whole or any part of a trade carried on by that person in the State.

(9) Where the Minister would have certified a trading operation under subsection (2) but for the fact that the condition specified in subsection (7)(a) was not satisfied as respects the trading operation, the Minister may, notwithstanding that such condition is not satisfied, certify the trading operation under subsection (2) if the Minister is satisfied that—

(a) the trading operation is not carried on in the Area due to circumstances outside the control of the company carrying on the trading operation, and

(b) such company intends to carry on, and will commence to carry on, the trading operation in the Area within such period of time as the Minister may specify under subsection (3) as a condition subject to which the Minister gives the certificate under subsection (2) in respect of the trading operation.

(10) For the purpose of relief under this Part, in the case of a qualified company carrying on relevant trading operations—

(a) the relevant trading operations shall be regarded as the manufacture in the State of goods, and

(b) any amount receivable in payment for anything sold, or any services rendered, in the course of the relevant trading operations shall be regarded as an amount receivable from the sale of goods.

(11) The inspector may by notice in writing require a company claiming relief from tax by virtue of this section to furnish him or her with such information or particulars as may be necessary for the purpose of giving effect to this section, and subsection (2) of section 448 shall apply as if the matters of which proof is required by that subsection included the information or particulars specified in a notice under this section.

(12) (a) For the purposes of this section, the Minister for Finance, after consultation with the Minister for the Environment and Local Government, may, by order direct that the definition of “the Custom House Docks Area” in section 322 shall include such area or areas described in the order which but for the order would not be included in that definition and, where the Minister for Finance so orders, the definition of “the Custom House Docks Area” in that section shall for the purposes of this section be deemed to include that area or those areas.

(b) The Minister for Finance may, for the purposes of making an order under this section and an order under section 322, exercise the powers to make those orders by making one order for the purposes of both of those sections.

(c) The Minister for Finance may make orders for the purpose of this section and any order made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.