

Provisions supplementary to sections 360 to 364. FA96 s70 365.—(1) A lease shall not be a qualifying lease for the purposes of section 361 , 362 or 363 if the terms of the lease contain any provision enabling the lessee or any other person, directly or indirectly, at any time to acquire any interest in the house to which the lease relates for a consideration less than that which might be expected to be given at that time for the acquisition of the interest if the negotiations for that acquisition were conducted in the open market at arm's length.

(2) A house shall not be a qualifying premises for the purposes of section 361, 362 or 363 if—

(a) it is occupied as a dwelling by any person connected with the person entitled, in relation to the expenditure incurred on the construction of, conversion into, or, as the case may be, refurbishment of, the house, to a deduction under section 361 (2), 362 (4) or 363 (2), as the case may be, and

(b) the terms of the qualifying lease in relation to the house are not such as might have been expected to be included in the lease if the negotiations for the lease had been at arm's length.

(3) (a) A house shall not be a qualifying premises for the purposes of section 361 or, in so far as it applies to expenditure other than expenditure on refurbishment, section 364 unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 4 of the Housing (Miscellaneous Provisions) Act, 1979 , in relation to standards of construction of houses and the provision of water, sewerage and other services in houses.

(b) A house shall not be a qualifying premises for the purposes of section 362 or 363 or, in so far as it applies to expenditure on refurbishment, section 364 unless it complies with such conditions, if any, as may be determined by the Minister for the Environment and Local Government from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act, 1979 , in relation to standards for improvements of houses and the provision of water, sewerage and other services in houses.

(4) (a) A house shall not be a qualifying premises for the purposes of section 361, 362 , 363 or 364 unless persons authorised in writing by the Minister for the Environment and Local Government for the purposes of those sections are permitted to inspect the house at all reasonable times on production, if so requested by a person affected, of their authorisations.

(b) A house shall not be a qualifying premises for the purposes of section 361 , 362 or 363 unless, throughout the period of any qualifying lease related to that premises, the house is used as the sole or main residence of the lessee in relation to that qualifying lease.

(5) (a) For the purposes of determining, in relation to any claim under section 361 (2), 362 (4), 363 (2) or 364 (2), as the case may be, whether and to what extent expenditure incurred on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the premises actually carried out during the qualifying period

shall be treated as having been incurred during that period.

(b) Where by virtue of section 360 (2) expenditure on the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, a qualifying premises includes expenditure on the development of any land, paragraph (a) shall apply with any necessary modifications as if the references in that paragraph to the construction of, conversion into, refurbishment of, or, as the case may be, construction or refurbishment of, the qualifying premises were references to the development of such land.

(6) (a) For the purposes of sections 361 and 362 other than the purposes mentioned in subsection (5)(a), expenditure incurred on the construction of, or, as the case may be, conversion into, a qualifying premises shall be deemed to have been incurred on the date of the first letting of the premises under a qualifying lease.

(b) For the purposes of section 363 other than the purposes mentioned in subsection (5)(a), relevant expenditure incurred in relation to the refurbishment of a qualifying premises shall be deemed to have been incurred on the date of the commencement of the relevant period, in relation to the premises, determined as respects the refurbishment to which the relevant expenditure relates.

(c) For the purposes of section 364 other than the purposes mentioned in subsection (5)(a), expenditure incurred on the construction or refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred that the premises is in use as a dwelling.

(7) For the purposes of sections 361 to 363, expenditure shall not be regarded as incurred by a person in so far as it has been or is to be met, directly or indirectly, by the State, by any board established by statute or by any public or local authority.

(8) Section 555 shall apply as if a deduction under section 361 (2), 362 (4) or 363 (2), as the case may be, were a capital allowance and as if any rent deemed to have been received by a person under section 361 (5), 362 (7) or 363 (5), as the case may be, were a balancing charge.

(9) An appeal to the Appeal Commissioners shall lie on any question arising under this section or under section 361, 362, 363 or 364 of the Housing (Miscellaneous Provisions) Act, 1979 ) in the like manner as an appeal would lie against an assessment to income tax or corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.