

**REPRINT** 

## **Act 544**

## FINANCE ACT 1996

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## FINANCE ACT 1996

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### Act 544

### FINANCE ACT 1996

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### Act 544

### FINANCE ACT 1996

An Act to amend the Income Tax Act 1967, the Real Property Gains Tax Act 1976, the Petroleum (Income Tax) Act 1967, the Stamp Act 1949, the Labuan Offshore Business Activity Tax Act 1990 and the Goods Vehicle Levy Act 1983.

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

### CHAPTER I

### **PRELIMINARY**

### Short title

1. This Act may be cited as the Finance Act 1996.

### **Amendments of Acts**

**2.** The Income Tax Act 1967 [Act 53], the Real Property Gains Tax Act 1976 [Act 169], the \*Petroleum (Income Tax) Act 1967 [Act 45 of 1967], the Stamp Act 1949 [Act 378], the Labuan Offshore Business Activity Tax Act 1990 [Act 445] and the Goods Vehicle Levy Act 1983 [Act 294] are amended in the manner specified in Chapters II, III, IV, V, VI and VII respectively.

<sup>\*</sup>NOTE—The Petroleum (Income Tax) 1967 [Act 45 of 1967] has since been revised as the Petroleum (Income Tax) Act 1967 [Act 543].

### CHAPTER II

### AMENDMENTS TO THE INCOME TAX ACT 1967

### Commencement of amendments to the Income Tax Act 1967

- **3.** (1) Except for paragraphs 10(a), 10(b), 11(a), 11(b), 16(c) and section 17, this Chapter shall have effect for the year of assessment 1996 and subsequent years of assessment.
- (2) Paragraphs 10(a), 10(b), 11(a), 11(b) and 16(c) shall have effect for the year of assessment 1995 and subsequent years of assessment.
- (3) Section 17 shall have effect for the year of assessment 1997 and subsequent years of assessment.

### Amendment of section 6

- **4.** The Income Tax Act 1967, which is referred to as the "principal Act" in this Chapter, is amended in subsection 6(1)—
  - (a) by substituting for the full stop at the end of paragraph (g) a semicolon; and
  - (b) by inserting after paragraph (g) the following paragraph:
    - "(h) income tax shall be charged for each year of assessment upon the chargeable income of a foreign fund management company in relation to the source consisting of the provision of fund management services to foreign investors for that year at the appropriate rate as specified in Part IX of Schedule 1.".

### Amendment of section 34

**5.** Paragraph 34(4)(a) of the principal Act is amended by substituting for the word "sixteen" the word "seventeen".

### Amendment of section 46

- **6.** Section 46 of the principal Act is amended—
  - (a) in paragraph (c) by substituting for the word "one" the word "five"; and
  - (b) in paragraph (d) by substituting for the word "three" the word "five".

### Amendment of section 48

- 7. Section 48 of the principal Act is amended—
  - (a) in subsection (1) by substituting for the proviso to that subsection the following proviso:
    - "Provided that where a wife living together with her husband is assessed separately for any year of assessment on her income, she may elect in writing that the appropriate deduction be wholly allowed to her for that year of assessment.";
  - (b) in paragraph (2)(b) by substituting for the words "one thousand six hundred" the words "five thousand"; and
  - (c) by substituting for subsection (9) the following subsection:
    - " (9) In this section "child", in relation to an individual or his wife, means a legitimate child or step-child of his or his wife, or a child proved to the satisfaction of the Director General to have been adopted by the individual or his wife in accordance with any law.".

- **8.** Section 49 of the principal Act is amended—
  - (a) by inserting after subsection (1A) the following subsection:
    - "(1B) (a) Subject to this section, in the case of an individual resident for the basis year for a year of assessment who has paid any premium for insurance on education or for medical benefits, there shall be allowed for that year of assessment in addition to the deduction allowed under subsection (1),

- a deduction of the aggregate amount of the payments or a deduction of two thousand ringgit, whichever is the less;
- (b) where paragraph 50(3)(b) applies there shall be allowed for that year of assessment, in addition to the deduction allowed under this subsection, a deduction of the aggregate amount of the payments for any premium for insurance on education or for medical benefits or a deduction of two thousand ringgit, whichever is the less:

Provided that where the wife has no total income the total deduction under this subsection shall not exceed two thousand ringgit."; and

- (b) by inserting after subsection (3) the following subsection:
  - "(4) For the purposes of subsection (1B) reference to an insurance means an insurance contracted for by an individual for himself, his wife or child, or in the case of a wife, for herself, her husband or child.".

### Amendment of section 50

- **9.** Section 50 of the principal Act is amended—
  - (a) by deleting subsection (2); and
  - (b) in paragraph (3)(b) by inserting after the words "paragraph (a)" the words "and any premium for any insurance on education or medical benefits".

- 10. Section 60 of the principal Act is amended—
  - (a) by substituting for paragraph (3A)(b) the following paragraph:
    - "(b) deducting from that aggregate—
      - (i) where subparagraph (a)(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realising those investments or rights; and

- (ii) so much of the amount transferred from the shareholders' fund as is equal to the actuarial deficit (subject to any adjustment as the Director General may think fit to make in accordance with the provisions of this Act) for that period arising from the life fund.";
- (b) by substituting for paragraph (4A)(b) the following paragraph:
  - "(b) deducting from that aggregate—
    - (i) where subparagraph (a)(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realising those investments or rights; and
    - (ii) so much of the amount transferred from the shareholders' fund as is equal to the actuarial deficit (subject to any adjustment as the Director General may think fit to make in accordance with the provisions of this Act) for that period arising from the life fund."; and
- (c) by substituting for subsection (7) the following subsection:
  - "(7) Where an insurer carrying on general business has re-insured the risk or part of the risk with a re-insurer who either does not carry on the business of insuring risks of that kind in Malaysia or does not re-insure the risk through a branch in Malaysia, there may be deducted under subparagraph (5)(b)(ii) or (6)(b)(ii) in respect of such risks which are re-insured only ninety-five per cent of the amount which would otherwise be deductible:

Provided that in a case to which subsection (6), (6A) or (6B) applies—

(a) the insurer may elect that no deductions shall be made under subparagraph (6)(b)(ii); and

- (b) where he does so—
  - (i) the election shall be irrevocable and shall apply in relation to the basis period for the year of assessment for which it is made and for the basis periods for all subsequent years of assessment; and
  - (ii) amounts recoverable under reinsurance contracts shall be disregarded for the purposes of subparagraph (6)(a)(iv).".

### Amendment of section 60E

- 11. Subsection 60E(7) of the principal Act is amended—
  - (a) in the definition of "qualifying services" by substituting for paragraph (b) the following paragraph:
    - "(b) provision of treasury and fund management services to its offices outside Malaysia or its related companies outside Malaysia and, where such services include the provision of credit facilities, the funds for providing such facilities can be obtained from outside Malaysia or within Malaysia and where such funds are obtained from within Malaysia the amount shall not exceed ten million ringgit; and"; and
  - (b) in the definition of "related company"—
    - (i) by substituting for the colon at the end of paragraph (c) a full stop; and
    - (ii) by deleting the proviso thereto.

### New section 60g

**12.** The principal Act is amended by inserting after section 60F the following section:

## "Foreign fund management company

**60**G. (1) Where a foreign fund management company carries on business in Malaysia of providing fund management services to foreign and local investors, the income derived from the provision of fund management services to foreign investors

shall be treated as a separate and distinct business source from that source of income derived from the provision of fund management services to local investors.

- (2) The chargeable income in relation to the source consisting of the provision of fund management services to foreign investors for a year of assessment shall be the statutory income from that source reduced by any deduction falling to be made pursuant to subsection 43(2) relating to that source.
- (3) The chargeable income in relation to the source or sources other than the source consisting of the provision of fund management services to foreign investors for a year of assessment shall be the statutory income from that source or the aggregate of the statutory income from each of those sources, as the case may be, reduced by any deductions falling to be made pursuant to subsections 43(2) and 44(1):

Provided that in so making the deductions under subsections 43(2) and 44(1), no regard shall be had to the adjusted loss, if any, from the source consisting of the provision of fund management service to foreign investors.

- (4) The chargeable income of a foreign fund management company, resident in Malaysia for the basis year for a year of assessment in relation to the source consisting of the provision of fund management services to foreign investors, after deduction of the tax thereon, shall be credited to an account to be kept by that company (that account and that company being referred to as the "exempt account" and the "relevant company" respectively).
- (5) Paragraphs 5 and 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempt under paragraph 3 of that Schedule were a reference to income credited to the exempt account of the relevant company under subsection (4).
  - (6) For the purposes of this section—

"foreign fund management company" means company—

(a) incorporated in Malaysia and licensed under the Securities Industry Act 1983 [Act 280]; and

- (b) (i) where the issued share capital is wholly foreign owned and provides fund management services to foreign investors only; or
  - (ii) where the issued share capital is in majority foreign owned and provides fund management services to foreign and local investors;

### "foreign investors"—

- (a) in relation to an individual means individuals who are not resident and not citizens of Malaysia;
- (b) in relation to a company means companies where the entire issued share capital is beneficially owned, directly or indirectly by persons who are not resident and not citizens of Malaysia; and
- (c) in relation to a trust fund means trust funds where the entire interest in the fund is beneficially held, directly or indirectly by foreign investors, where—
  - (i) the fund is created outside Malaysia; and
  - (ii) the trustees of the fund are not resident and not citizens of Malaysia;

"local investors" are individuals, companies or trust funds that are not foreign investors.".

### Amendment of section 133A

**13.** Section 133A of the principal Act is amended by inserting after the words "Schedule 7A" the words "and Schedule 7B".

### Amendment of Schedule 1

- **14.** Schedule 1 to the principal Act is amended—
  - (a) in paragraph 1 of Part I by substituting for the rates the following rates:

"Chargeable Income	RM	Rate of Income Tax
For every ringgit of the first	2,500	0 per cent
For every ringgit of the next	2,500	2 per cent
For every ringgit of the next	5,000	4 per cent

"Chargeable Income	RM	Rate of Income Tax
For every ringgit of the next	10,000	6 per cent
For every ringgit of the next	15,000	10 per cent
For every ringgit of the next	15,000	16 per cent
For every ringgit of the next	20,000	21 per cent
For every ringgit of the next	30,000	26 per cent
For every ringgit of the next	50,000	29 per cent
For every ringgit exceeding	150,000	30 per cent";

# (b) in Part IV by substituting for the rates the following rates:

"Chargeable Income	RM	Rate of Income Tax
For every ringgit of the first	10,000	0 per cent
For every ringgit of the next	10,000	2 per cent
For every ringgit of the next	10,000	5 per cent
For every ringgit of the next	10,000	8 per cent
For every ringgit of the next	10,000	11 per cent
For every ringgit of the next	25,000	14 per cent
For every ringgit of the next	25,000	18 per cent
For every ringgit of the next	50,000	22 per cent
For every ringgit of the next	100,000	25 per cent
For every ringgit of the next	250,000	28 per cent
For every ringgit exceeding	500,000	30 per cent";

and

(c) by inserting after Part VIII the following Part:

" PART IX

### Amendment of Schedule 3

- **15.** Schedule 3 to the principal Act is amended—
  - (a) by deleting subparagraph 37B(c);
  - (b) by inserting after paragraph 37D the following paragraph:

# "Qualifying expenditure: Building used for approved service project

**37**E. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of the provision of services and modernization of operations in relation to an approved service project as defined under Schedule 7B."; and

- (c) by inserting after paragraph 42A the following paragraphs:
  - "42B. Where in the basis period for a year of assessment a person has for the purposes of a business of his incurred capital expenditure on the construction or purchase of a building for a school or an educational institution approved by the Minister of Education or any relevant authority, that building shall be treated as an industrial building for the purposes of that business and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16, 17 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.
  - **42c.** Where in the basis period for a year of assessment a person has for the purposes of a business of his incurred capital expenditure on the construction or purchase of a building for the purposes of industrial, technical or vocational training approved by the Minister, that building shall be treated as an industrial building for the purposes of that business and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16, 17 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment."

### Amendment of Schedule 6

- 16. Schedule 6 to the principal Act is amended—
  - (a) in paragraph 33 by inserting after the word "banking" the words "or finance";
  - (b) in paragraph 35 by inserting after the word "individual" the words ", unit trust and listed closed end fund"; and

(c) by inserting after paragraph 36 the following paragraph:

"For the purposes of this paragraph "Malaysian life insurers" means life insurers and takaful operators whose ownership or membership are held in majority by Malaysian citizens.".

### Amendment of Schedule 7A

- 17. Schedule 7A to the principal Act is amended—
  - (a) in paragraph 1 by substituting for the word "fifty" appearing after the words "reinvestment allowance of" the word "sixty";
  - (b) by inserting after paragraph 1 the following paragraph:
    - "IA. Where a company which is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment, capital expenditure in relation to an agricultural project in Malaysia for the purposes of any qualifying project there shall be given to the company for that year of assessment a reinvestment allowance of sixty per cent of that expenditure.";
  - (c) by substituting for paragraphs 2 and 3 the following paragraphs:
    - "2. Subject to paragraph 4 an allowance given under paragraph 1 or 1A for expenditure incurred in relation to any qualifying project shall be given only for the year of assessment in the basis period for which that expenditure was incurred—
      - (a) where paragraph 1 applies, only in respect of expenditure incurred from the first of January 1979; or
      - (b) where paragraph 1A applies, only in respect of expenditure incurred from the first of January 1996.
    - 3. Where an allowance is given to a company under paragraph 1 or 1A for a year of assessment, so much of the statutory income of the company for the basis period for that year as is equal to the amount of the allowance (or to the aggregate amount of any such allowances as the case may be) shall be exempt from tax for that year of assessment:

Provided that where the qualifying project is located outside the States of Sabah, Sarawak, the Eastern Corridor of Peninsular Malaysia and such other areas which the Minister may from time to time determine, the amount so exempt shall not exceed seventy per cent of the statutory income of that business of the company for that year of assessment.";

- (d) in paragraph 4 by substituting for the words "adjusted income" wherever they appear the words "statutory income":
- (e) in paragraph 7—
  - (i) by deleting the word "or" at the end of subparagraph (d);
  - (ii) by substituting for the full stop at the end of subparagraph (e) the words "; or"; and
  - (iii) by inserting after subparagraph (e) the following subparagraph:
    - "(f) in respect of qualifying expenditure on an approved agricultural project which has been given a deduction under Schedule 4A.";
- (f) in paragraph 8—
  - (i) by deleting the word "or" at the end of subparagraph (a);
  - (ii) by substituting for the full stop at the end of subparagraph (b) the words "; or"; and
  - (iii) by inserting after subparagraph (b) the following subparagraph:
    - "(c) an agricultural project undertaken by a company in expanding, modernizing or diversifying its cultivation and farming business."; and
- (g) by inserting after paragraph 8 the following paragraph:
  - "9. In this Schedule —

"capital expenditure", in relation to an agricultural project referred to in paragraph 1A, means capital expenditure incurred in respect of —

- (a) the clearing and preparation of land;
- (b) the planting of crops;
- (c) the provision of irrigation or drainage systems;
- (d) the provision of plant and machinery;
- (e) the construction of access roads including bridges; or

(f) the construction or purchase of buildings (including those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land or other structures.

for the purposes of any of the following activities:

- (aa) cultivation of rice and maize;
- (bb) cultivation of vegetables, tuber and roots;
- (cc) cultivation of fruits;
- (dd) livestock farming;
- (ee) spawning, breeding or culturing of aquatic products; and
- (ff) any other activities approved by the Minister;

"Eastern Corridor of Peninsular Malaysia" means the States of Kelantan, Terengganu, Pahang (not including the Districts of Lipis, Raub, Jerantut and Cameron Highlands except for the industrial areas approved by the State Government), and the District of Mersing in the State of Johore."

### New Schedule 7B

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**18.** The principal Act is amended by inserting after Schedule 7A the following Schedule:

SCHEDULE 7B

[Section 133A]

### Investment Allowance For Service Sector

- 1. Where a company which is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment capital expenditure for the purpose of an approved service project, there shall be given to the company for that year of assessment an investment allowance of an amount approved by the Minister, such allowance being not less than sixty per cent of that expenditure.
- 2. The Minister may grant approval in respect of an application made in writing for an investment allowance under this Schedule on such terms and conditions as he deems fit.
- 3. An allowance for expenditure given under paragraph 1 shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect.

- 4. Where an allowance is given to a company under paragraph 1 for a year of assessment, so much of the statutory income of the business of the company in respect of an approved service project for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax and the amount so exempt shall not exceed seventy per cent (or any other rate as the Minister may determine) of the statutory income of that business of the company for that year of assessment.
- 5. Where, by reason of an absence or insufficiency of statutory income of a company from a business for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the company is entitled to under this Schedule for that year in relation to the source consisting of that business, then, notwithstanding the foregoing paragraphs, so much of the allowance or allowances in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this Schedule for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and so on for subsequent years of assessment until the company has received the whole of the allowance or allowances to which it is so entitled.
- 6. Paragraphs 5 and 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempted under paragraph 3 of that Schedule were a reference to income credited to the exempt account under paragraph 4.
- 7. This Schedule shall not apply to a company for the period during which the company has been granted exemption under section 127.
- 8. For the purposes of this Schedule any expenditure incurred in relation to an approved service project prior to the commencement of the business, shall be deemed to be incurred on the day when the business commences.
- 9. For the purposes of this Schedule—

"approved service project" means a project in the service sector in relation to transportation, communications, utilities or any other subsector as approved by the Minister;

"capital expenditure", in relation to an approved service project, means capital expenditure incurred on plant, machinery, fixtures, premises, buildings, structures or works of a permanent nature and shall not include capital expenditure incurred on buildings, plant or machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff."

### CHAPTER III

## AMENDMENTS TO THE REAL PROPERTY GAINS TAX ACT 1976

# Commencement of amendments to the Real Property Gains Tax Act 1976

**19.** This Chapter shall be deemed to have come into force on 27 October 1995.

### Amendment of Schedule 5

**20.** Schedule 5 to the Real Property Gains Tax Act 1976 is amended by substituting for Parts I and II the following Parts:

" Part I

Except where Part II or Part III is applicable, the following rates of tax shall apply:

Category of disposal	Rate of tax
Disposal within two years after the date of acquisition of the chargeable asset	30 per cent
Disposal in the third year after the date of acquisition of the chargeable asset	20 per cent
Disposal in the fourth year after the date of acquisition of the chargeable asset	15 per cent
Disposal in the fifth year after the date of acquisition of the chargeable asset	5 per cent
Disposal in the sixth year after the date of acquisition of the chargeable asset or thereafter	Nil

## Part II

In the case where the disposer is a company, the following rates of tax shall apply:

Category of disposal	Rate of tax
Disposal within two years after the date of acquisition of the chargeable asset	30 per cent

Category of disposal	Rate of tax
Disposal in the third year after the date of acquisition of the chargeable asset	20 per cent
Disposal in the fourth year after the date of acquisition of the chargeable asset	15 per cent
Disposal in the fifth year after the date of acquisition of the chargeable asset or thereafter	5 per cent

### PART III

An individual who is not a citizen and not a permanent resident shall on disposal of a chargeable asset acquired by him be charged at the rate of 30 per cent on every ringgit of the chargeable gain on that disposal after 27 October 1995.".

### CHAPTER IV

## AMENDMENTS TO THE PETROLEUM (INCOME TAX) ACT 1967

# Commencement of amendments to the Petroleum (Income Tax) Act 1967

**21.** This Chapter shall have effect for the year of assessment 1996 and subsequent years of assessment.

- **22.** The Petroleum (Income Tax) Act 1967 is amended in section 16—
  - (a) in paragraph (3)(a) by substituting for the word "sixteen" the word "seventeen"; and
  - (b) by inserting after subsection (7) the following subsection:
    - "(7A) There shall be deducted from the relevant gross income an amount equal to the amount of expenditure incurred by the relevant chargeable person in the relevant period on the provision of any equipment necessary to assist any disabled person employed by him in the production of his gross income."

### CHAPTER V

### AMENDMENTS TO THE STAMP ACT 1949

### Commencement of amendments to the Stamp Act 1949

- **23.** (1) Except for section 25, this Chapter shall come into force on 1 January 1996.
- (2) Section 25 shall be deemed to have come into force on 1 July 1995.

### Amendment of section 36

**24.** The Stamp Act 1949, which is referred to as the "principal Act" in this Chapter, is amended in subsection 36(1) by substituting for the word "one" the word "ten".

### Amendment of First Schedule

25. The First Schedule to the principal Act is amended by substituting for the words "\$1.50" in item 31 under the heading "Proper Stamp Duty" the words "\$1.00".

### CHAPTER VI

### AMENDMENTS TO THE LABUAN OFFSHORE BUSINESS ACTIVITY TAX ACT 1990

## Commencement of amendments to the Labuan Offshore Business Activity Tax Act 1990

**26.** This Chapter shall have effect for the year of assessment 1996 and subsequent years of assessment.

- **27.** The Labuan Offshore Business Activity Act 1990 is amended in subsection 2(1)—
  - (a) by inserting after the definition of "Director General" the following definition:
    - "domestic company" has the meaning as in the Offshore Companies Act 1990 [Act 441];; and

- (b) in the definition of "offshore business activity"—
  - (i) by deleting the words "and petroleum"; and
  - (ii) in the proviso thereto by deleting the word "and" at the end of paragraph (ii), inserting the word "and" at the end of paragraph (iii) and inserting after paragraph (iii) the following paragraph:
    - "(iv) in relation to the holding of investments by an offshore company in a domestic company where permitted under section 150 of the Offshore Companies Act 1990, such holding may be in Malaysian currency;".

### CHAPTER VII

### AMENDMENTS TO THE GOODS VEHICLE LEVY ACT 1983

# Commencement of amendments to the Goods Vehicle Levy Act 1983

**28.** This Chapter shall come into force on 1 January 1996.

## Amendment of long title

**29.** The Goods Vehicle Levy Act 1983, which is referred to as the "principal Act" in this Chapter, is amended in the long title by inserting after the word "leaving" the words "or entering".

- **30.** Section 3 of the principal Act is amended—
  - (a) in subsection (1)—
    - (i) by inserting after the word "leaving" the words "or entering"; and
    - (ii) by deleting the words "of one hundred ringgit"; and

- (b) by substituting for subsection (2) the following subsection:
  - " (2) The Minister may by order published in the *Gazette*, prescribe, from time to time, the amount of the goods vehicle levy to be levied under subsection (1)."

### Act 544

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## LIST OF AMENDMENTS

Amending law Short title In force from
- NIL -

### Act 544

## FINANCE ACT 1996

### LIST OF SECTIONS AMENDED

Section	Amending authoritty	In force from
	– NIL –	