

Notes for Guidance - Taxes Consolidation Act 1997

Finance Act 2018 edition

Part 49 Commencement, Repeals, Transitional provisions, etc

December 2018



The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

Part 49 Commencement, Repeals, Transitional provisions, etc

1097 Commencement

1098 Repeals

1099 Saving for enactments not repealed

1100 Consequential amendments to other enactments

1101 Transitional provisions

1102 Continuity and construction of certain references to old and new law

1103 Continuance of officers, instruments and documents

1104 Short title and construction

PART 49 COMMENCEMENT, REPEALS, TRANSITIONAL PROVISIONS, ETC

Overview

This Part sets out the provisions necessary for the commencement of the Taxes Consolidation Act, 1997 (TCA 1997). It also makes provision for repeals, savings, consequential amendments, continuity and transitional measures. Finally, it provides for the short title and construction of the TCA 1997. The construction provision (*section 1104*) sets out the sections of the TCA 1997 which are to be construed with —

- the VAT Consolidation Act 2010,
- the Customs Acts,
- the Excise statutes,
- the Capital Acquisitions Tax Consolidation Act 2003,
- the Stamp Duties Consolidation Act 1999, and
- the legislation relating to residential property tax (RPT).

1097 Commencement

The TCA 1997 is deemed to come into effect, except where otherwise provided in the **(1)** Act —

- in relation to income tax, for the year 1997–98 and subsequent years of assessment,
- in relation to corporation tax, for accounting periods ending on or after 6 April, 1997, and
- in relation to capital gains tax, for the year 1997–98 and subsequent years of assessment.

The “deeming” provision is necessary as the TCA 1997 was only enacted on 30 November, 1997 but had to come into force from the start of the tax year (that is, 6 April, 1997) in order to ensure a smooth change over from the old law to the new. For convenience and because of the interaction of the Corporation Tax Acts and the Income Tax Acts, the TCA 1997 was also deemed to commence for corporation tax purposes for accounting periods ending on or after 6 April, 1997.

In addition to the commencement provisions for income tax, corporation tax and capital gains tax, it is necessary to provide for the commencement of the provisions of the TCA 1997 which do not specifically relate to such taxes. Accordingly, it is provided that the provisions of the TCA 1997 set out below are deemed to come into force on the 6 April, 1997 in substitution for the corresponding provisions of the old law (referred to as “the repealed enactments”). **(2)**

- Any provisions authorising the making, variation or revocation of any order or regulation or other instrument. **(2)(a)**
- Any provision relating to the making of a return, the furnishing of a certificate or statement, or the giving of any information. These provisions include any such provision which imposes a duty or obligation on the Revenue Commissioners, their officers and inspectors as well as duties and obligations imposed on any other person. **(2)(b)**
- Any provision imposing a fine, forfeiture or penalty. **(2)(c)**

- Any provision which — (2)(d)
 - confers any power, the exercise of which, or
 - imposes any duty or obligation, the performance of which, operates or may operate for more than —
 - one year of assessment in the case of income tax,
 - one accounting period in the case of corporation tax, and
 - one year of assessment in the case of capital gains tax.

However, such provisions of the TCA 1997 do not operate where the tax concerned is comprised wholly of income tax, corporation tax or capital gains tax, as appropriate, for years of assessment before 1997–98 or in the case of corporation tax, for accounting periods ending before 6 April, 1997. In such cases the repealed provisions continue to apply.

- Those provisions contained in the TCA 1997 which relate to taxes and duties other than income tax, corporation tax and capital gains tax. The references for such provisions may be found in *section 1104*. (2)(e)

Anything done under the provisions of the repealed enactments corresponding with the provisions of the TCA 1997 and referred to in *subsection (2)* are deemed to have been done under the provisions of the TCA 1997 to which the provisions of the repealed enactments correspond. (3)

Those provisions of the repealed enactments which impose a fine, forfeiture, penalty or punishment in respect of an offence are to continue in force in so far as they are concerned with an offence which was committed or began before 6 April, 1997. (4)

As and from the 6 April, 1997, any order or regulation made, or anything done or having effect as if done, under a repealed provision is deemed to be an order, etc made under the corresponding provision of the TCA 1997. (5)

1098 Repeals

The enactments listed in *column (2)* of *Schedule 30* are repealed as on and from 6 April, 1997 to the extent specified in *column (3)* of that *Schedule*. (1)

Subject to the exceptions provided for in *section 1097*, the provisions of the TCA 1997 do not apply in relation to — (2)

- income tax for the year 1997–98 and earlier years of assessment,
- corporation tax for accounting periods ending before 6 April, 1997,
- capital gains tax for the year 1997–98 and earlier years of assessment.

1099 Saving for enactments not repealed

The provisions of other enactments which relate to income tax, corporation tax and capital gains tax which are not repealed by the TCA 1997 continue to apply. The principal such provisions are those sections of the Waiver of Certain Tax, Interest and Penalties Act, 1993 not incorporated into the TCA 1997 and the provisions of the Diplomatic Relations and Immunities Act, 1967 relating to income tax, etc.

1100 Consequential amendments to other enactments

This section provides, by means of *Schedule 31*, that references to provisions of the repealed enactments in other enactments are to be changed to references to the relevant provisions of the TCA 1997.

1101 Transitional provisions

Transitional provisions set out in *Schedule 32* apply for the purposes of the TCA 1997.

1102 Continuity and construction of certain references to old and new law

The Revenue Commissioners have all the powers and duties in relation to tax under the TCA 1997 which they had before its enactment. (1)

The continuity of the law relating to income tax, corporation tax and capital gains tax is not affected by the substitution of the TCA 1997 for the repealed enactments. (2)

Any reference in any document or enactment to a provision of the TCA 1997 is to be construed, where necessary, as a reference to the corresponding provision of the relevant legislation before consolidation. (3)

Any reference in any document or enactment to a provision before consolidation (that is, a reference to a repealed enactment) is to be construed, where necessary, as a reference to the corresponding provision of the TCA 1997. (4)

No act which was not an offence when it was committed or occurred is to be regarded as an offence in the period from 6 April, 1997 to 30 November, 1997 (the date of passing of the TCA 1997). (5)

1103 Continuance of officers, instruments and documents

The appointment, authorisation and nomination of officers of the Revenue Commissioners and all instruments, documents, authorisations and letters of appointment made or issued before the commencement of the TCA 1997 continue in force as if made or issued under the TCA 1997.

1104 Short title and construction

The short title of the Act is the “Taxes Consolidation Act 1997”.

The section lists various sections of the Taxes Consolidation Act 1997 which are to be construed together with the Customs Acts, the statutes which relate to the duties of excise, the Value-Added Tax Consolidation Act 2010, the Stamp Duties Consolidation Act 1999, the Capital Acquisitions Tax Consolidation Act 2003 and Part VI of the Finance Act, 1983 which imposed the Residential Property Tax.