

## Living City Initiative Part 10/Chapter 13

This document should be read in conjunction with sections 372AAA to 372AAD of  
the Taxes Consolidation Act 1997

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## Introduction

This manual explains the Living City Initiative which is a scheme of property tax incentives provided for in Chapter 13 of Part 10 of the Taxes Consolidation Act 1997.

### 1. Overview

The Living City Initiative is a scheme of property tax incentives aimed at the regeneration of certain areas in the historic centres of Cork, Dublin, Galway, Kilkenny, Limerick and Waterford. The areas (known as “special regeneration areas” (SRAs)) have been designated for the purposes of the scheme by Order of the Minister for Finance. The maps and boundaries of these areas can be found on the websites of the respective local authorities. Every effort has been taken to ensure that the boundaries of these SRAs do not intersect properties. Expenditure on a property located outside a SRA cannot qualify for tax relief. It is the responsibility of the applicant to determine whether their property is within a SRA.

#### 1.1. Qualifying Expenditure

The scheme provides for tax relief for qualifying expenditure incurred on the refurbishment and conversion of both residential and commercial buildings. There are three types of relief available:

- owner occupier residential relief
- rented residential (landlord) relief
- commercial or retail relief.

Relief is only available for refurbishment or conversion work (not for “new build”) that is carried out during the qualifying period (see Appendix for definitions). The qualifying period runs from 5 May 2015 to 4 May 2020 for owner occupier residential relief and commercial relief and from 1 January 2017 to 4 May 2020 for rented residential relief. The relief must be claimed electronically.

#### 1.2. Restriction on tax relief claims by high-income individuals

Chapter 2A of Part 15 ([Part 15-02a-05](#)) of the Taxes Consolidation Act 1997 (TCA 1997) and associated Schedules 25B and 25C introduced, with effect from 1 January 2007, a measure to limit the use of certain tax reliefs and exemptions by high-income individuals. This measure is commonly known as the high earners restriction. The three<sup>1</sup> types of tax relief available under the Living City Initiative are among those restricted.

#### 1.3. Statutory Consents

There must be full compliance of the works to meet all statutory requirements. There are no exemptions, or special procedures, in this regard for works to properties located in a SRA.

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<sup>1</sup> The owner occupier residential relief is included in the high earners restriction with effect from 1 January 2017.

It is important for persons wishing to claim relief that it is established, at the outset, whether any part of the site or structure is protected by legislation and what types of notifications, permissions and/or consents it may be necessary to obtain. Because of the location and nature of the properties qualifying for tax relief, the building may be a protected structure or the area may be an architectural conservation area under the Planning and Development Act 2000 (as amended) and, if so, the advice of an architectural conservation officer in the local authority should be sought. In addition, there may be requirements under the National Monuments Acts (1930-2004) and the advice of the National Monuments Service of the Department of Arts, Heritage, and the Gaeltacht should be sought in this regard.

## **2. Owner Occupier Residential relief**

This residential relief is only available for owner occupiers. Landlords cannot claim owner occupier residential relief on properties they have rented out but may claim relief under the rented residential element of the scheme. Property developers may carry out the refurbishment/conversion work under this scheme and then sell the refurbished/converted properties to individuals who can claim the relief. Furthermore, there is nothing to prevent an individual who is a property developer from claiming owner occupier residential relief under this scheme on his/her own sole or main residence.

### **2.1. How Owner Occupier Residential relief works**

An individual who incurs qualifying expenditure (which must be at least €5,000) is entitled to tax relief by way of a deduction from their total income. The expenditure is written off over a ten year period at a rate of 10% per annum. The relief is only available where the property is the claimant's sole or main residence. There is no upper limit to the amount of qualifying expenditure that can be incurred.

#### **Example**

Mary owns a house that is located in a Special Regeneration Area (SRA). She spends €32,000 refurbishing the house between March and December 2016. She moves back into the property in January 2017. She is entitled to a deduction of €3,200 (€32,000 @ 10%) from her total income per annum for 10 consecutive years starting in 2017. Depending on the rate of income tax she pays this deduction of €3,200 could result in tax relief of up to €1,280 per annum (i.e. €3,200 @ 40%).

Owner Occupier Relief does not affect the amount of USC or PRSI which is otherwise payable.

If all the relief for one year cannot be used in that year because of insufficient income, the excess cannot be carried forward and is lost.

## 2.2. Conditions<sup>2</sup>

The following conditions apply to the owner occupier residential element of the scheme:

- The property must be located within a “special regeneration area” (SRA).
- The property must have been originally built prior to 1915.
- The expenditure on refurbishment/conversion must be at least €5,000.
- A Letter of Certification must be obtained from the local authority regarding the property before any claim for tax relief can be made (see [2.12 “Letter of Certification”](#)). While the application for this letter should be made before the work has commenced, the letter will only be issued after the work has been completed.
- The first occupation of the property after the work has been completed must be by the claimant as his/her sole or main residence. This establishes the claimant’s right to the tax relief. If the property is put to some other use (e.g. let) before the claimant moves in then the owner occupier relief is lost.
- Any grants received must be deducted from qualifying expenditure.

Relief is only available for expenditure on refurbishment or conversion work that is carried out during the qualifying period which for the owner occupier residential element of the scheme commenced on 5 May 2015 and will terminate on 4 May 2020. In calculating qualifying expenditure, only the direct costs of refurbishment and conversion are allowable.

## 2.3. Sole or main residence

In order to qualify for this tax incentive, the property must be occupied as a sole or main residence. It must be occupied in that capacity for all or part of each year for which the relief is claimed. It is not a requirement that the property is occupied for all of the 10-year period, but no relief is due for any year in which there was no period of occupation. If an individual has two residences and it is not possible to determine which of the two residences is the main residence, he/she may select (in writing) the residence that is to be regarded as his/her main residence.

## 2.4. Use of property

It is important to understand the process of claiming relief once the work is completed. Take the following example:

- The expenditure commences in 2015 and is carried over into 2016. The refurbishment is completed in 2016.
- The property is left empty for the remainder of 2016 and is occupied as a main residence in 2017. For the purposes of claiming the relief, the individual is treated as having incurred all the expenditure in 2017. In other words, the first use of the property "starts the clock".

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<sup>2</sup> Finance Act 2016 removed the floor area requirements which previously applied to the owner occupier residential element of the scheme.

- If there is a delay in moving into the property after it is refurbished, it is important that the property is not put to some other use, such as being let in that time. If it is, then this will mean no owner/occupier relief can ever be available.
- If the property is unoccupied for a period of time during the 10 years (for example, the individual is transferred in work to another part of the country for a number of years, or where the property is let) this will have an effect on the right to claim owner occupier relief. If the absence is for a calendar year then no relief is due for that year. It is lost, not deferred. If the absence is for part of a calendar year, the relief is allowed for that year, provided that the property was used as the individual's sole or main residence at some time during that year. Likewise, if the property is re-occupied and used as the individual's sole or main residence (after a period of non-use or letting), relief may be claimed for that year, provided that this occurs during the 10 year period. Relief will be available for the remainder of the 10 year period.

## **2.5. Sale of the property within the 10 year period**

If the property is sold within the 10 year period, there is no clawback but the full amount of the relief is not available as no relief can be claimed where the property ceases to be the individual's sole or main residence. For example, if the property is sold in year 3 the individual will be entitled to claim 30% of the qualifying expenditure (i.e. 10% x 3 years) provided that he/she has used the property as his/her sole or main residence at some time during each of those years, including the year of sale. The relief is only available to the first owner-occupier of the property after it has been converted or refurbished and, as such, the new owner has no entitlement to claim any owner occupier relief.

## **2.6. Death of applicant within the 10 year period**

If the applicant dies within the 10 year period, before obtaining relief for 100% of the expenditure, the tax relief does not pass to any other person (including the person who might inherit the relevant house) and as such, will not form any part of an inheritance. It is important to note that there is no claw-back of the relief for individuals in respect of owner occupier residential accommodation. The deduction is only available each year where the individual continues to occupy the property as his/her sole or main residence.

## **2.7. How much relief can be claimed**

There are a number of factors to take into account in determining how much relief can be claimed. Only expenditure incurred during the qualifying period is eligible for the relief. The qualifying period started on 5 May 2015 and ends on 4 May 2020.

- An individual may already live in the property and pay directly for the work to be carried out.
- An individual may buy a vacant or derelict property and pay directly for the work to be carried out.

- An individual may buy a fully refurbished/converted property (house or apartment) directly from a builder.

There are other possible scenarios. In the first two scenarios it is relatively straightforward to calculate how much refurbishment/conversion expenditure is incurred since it is the amount paid to the relevant contractor. There is, however, a requirement to spend a minimum of €5,000.

In the case of refurbished/converted property acquired from a builder the claimant must be the first person occupying it after the refurbishment/conversion. The price paid for the property is known (stamp duty is excluded) but the amounts incurred by the builder on refurbishing/converting the property will be unknown. To enable a person to claim the correct amount of relief, the builder is required to advise the claimant what percentage the refurbishment/conversion expenditure is of the total cost. This percentage has to be based on the builder's costs. It is unlikely that the builder will disclose actual details of his/her costs. However, once the percentage is known a claim can be made. The following example illustrates the point:

- A builder purchases a derelict property for €75,000 and spends €25,000 on refurbishment (total cost €100,000).
- Fully refurbished property is sold for €150,000.

The builder spent 25% of his/her total costs on refurbishment. At the time of sale he/she informs the buyer of this percentage. This is then applied to the sale price resulting in a total claim for relief of €37,500 ( $€150,000 \times 25\%$ ) spread evenly over 10 years (deduction of €3,750 per annum).

The builder is required to transmit the Letter of Certification to the purchaser as proof that the house qualifies for tax relief under the scheme. A person claiming relief under the scheme should be able to show that he/she has fulfilled all the relevant conditions and that he/she is entitled to the relief. The fact that the Letter of Certification is not in the name of the person who is claiming the tax relief is not an issue as its main purpose is to ensure that the refurbished/converted house meets certain standards and that the amount spent on carrying out the works appears to be reasonable.

## 2.8. Grants

Any sum which an individual has or is entitled to receive, directly or indirectly, from the State, or any board established by statute or any public authority must be deducted when calculating the qualifying expenditure for the purposes of the residential owner occupier relief.

## 2.9. Meaning of expenditure incurred in the qualifying period

Relief is only available for expenditure on refurbishment or conversion work that is carried out during the qualifying period for the scheme. As previously mentioned the qualifying period is 5 years starting on 5 May 2015 and ending on 4 May 2020.

Where work is carried out after the end of the qualifying period, the property will still be eligible for relief but only in respect of the amount of the expenditure incurred in the qualifying period. For the purposes of determining when expenditure is incurred, only the amount of the expenditure that is attributable to work that is actually carried out during the period is taken into account. Therefore, work actually carried out prior to the qualifying period but paid for during the period does not qualify. Similarly, there is no relief for advance payments for materials or for work that will be carried out after the end of the qualifying period.

## 2.10. Costs taken into account in calculating qualifying expenditure

Not all of the costs incurred on the refurbishment or conversion of a property are taken into account in calculating the amount of the qualifying expenditure. Broadly speaking, only the **direct** costs of refurbishment and conversion are allowable. However, Revenue practice is to allow the cost, when **first** installed, of fitted kitchens and bathroom suites and certain other items such as fireplaces that form part of the fabric of the building. The treatment of VAT as a cost is dealt with below. Costs that **are** allowed in calculating the amount of the qualifying expenditure include:

- Direct refurbishment or conversion costs such as the cost of building materials, hire of equipment, labour costs, administrative overheads, architects' and engineers' fees, painting and decorating, when undertaken as part of the refurbishment or conversion,
- The cost of certain items, when first installed, that form part of the fabric of the building such as fitted kitchens (excluding appliances), bathroom suites, fixed flooring, tiling and light fittings,
- Fees paid to local authorities for the provision of certain infrastructure and services that are directly related to the particular property,
- Interest on money borrowed to fund direct refurbishment or conversion costs.

Costs that are not allowed in calculating the amount of the qualifying expenditure include:

- The cost of the building prior to refurbishment or conversion,
- Costs associated with the acquisition of the building prior to refurbishment/conversion such as legal fees, stamp duty, and professional valuation fees,
- The cost of items that do not form part of the fabric of the building such as kitchen appliances, free-standing furniture, carpets, curtains and garden plants,
- Marketing and selling costs such as money spent on advertising the property and auctioneers' fees (this is only relevant in the case of a builder, for example, who refurbishes the property and then sells it to an owner/occupier),
- Costs attributable to a person's own labour,

- General contributions/levies that are paid to a local authority but are not directly related to the property,
- Interest paid on money borrowed to fund the purchase of the property prior to refurbishment/conversion and interest on other borrowings not directly related to the refurbishment or conversion.

These lists are not exhaustive.

VAT paid in connection with the refurbishment or conversion of a property or the purchase of a property can only be included as part of qualifying expenditure where the person who incurred the expenditure is not registered for VAT or, where registered, an input credit is not available. In other words, relief is only available where VAT is a net cost to the person paying that VAT. In the case of a person who personally undertakes the work, there is no entitlement to reclaim any VAT paid as the property is not being used for business purposes. Qualifying expenditure can, therefore, be VAT inclusive. Conversely, in the case of a builder, since the VAT on his/her inputs can generally be reclaimed, the figure (qualifying expenditure) that is used to calculate the percentage entitlement for the purchaser of the property is net of VAT. The purchaser can then apply this percentage to the purchase price (inclusive of VAT) to work out their qualifying expenditure figure.

Using the same figures as the example in [2.7: "How much relief can be claimed"](#):

The builder spends €25,000 on refurbishment (total cost €100,000). This €25,000 is net of VAT. The purchaser then buys the property for €150,000 which is inclusive of VAT. The relief that the purchaser can claim over 10 years is 25% of €150,000 which is €37,500 (€3,750 can be claimed annually).

In the case of a person who purchases a fully refurbished/converted property, for the purposes of calculating the relief due, the price paid for the completed property does not include legal and other professional fees and stamp duty paid in connection with the purchase.

## 2.11. Expenditure on an extension to the property

Generally speaking, expenditure on an extension will **not** qualify for tax relief under the scheme except, of course, expenditure on a pre-1915 extension to an older building. However, expenditure on an extension will qualify if building regulations require the provision of, for example, a bathroom extension to an old derelict house. Therefore, expenditure on an extension of, for instance, an extra 2 or 3 bedrooms added on to the original building will not qualify for tax relief. Subject to the above, a person who has spent money on an extension cannot claim any tax relief on the expenditure incurred on that extension. However, this does not prevent the person from claiming relief in relation to any refurbishment or conversion expenditure incurred on the original structure. It is the expenditure on the original house which the local authority will be confirming in the Letter of Certification.

## 2.12. Letter of Certification

A Letter of Certification is a letter issued to the claimant (or to the person who refurbished/converted the property) by the relevant local authority in respect of the property (see [2.13 "Application Process"](#) for further information). The letter contains the following statements;

- That planning permission has been obtained for the works. In some cases, certain works will not require planning permission. If that is the case, it will be stated in the letter.
- That the basic standards of facilities regarding water, sewerage and other services have been installed.
- That on the basis of the information provided, the cost of the works seems reasonable. This opinion will be based on the material supplied to the local authority either by the claimant or builder. Its purpose is to ensure that the amount of expenditure which is eligible for the relief is not excessive.

It should be noted that copies of these Letters of Certification will also be sent to the Revenue Commissioners. This is to enable aggregate data of uptake of the relief to be collected as well as providing early notification of future claims.

## 2.13. The Application Process

The application form for the Letter of Certification is available on the relevant local authority website. A separate application is required for each residential unit. The following information is required to be provided:

- The name and address of the applicant.
- The address of the property (this may be the same).
- The property ID for Local Property Tax purposes (if available).
- Reference number of planning permission (if it is needed).
- A description of the works. This should be sufficient to enable the local authority to ultimately make a judgement that the cost is reasonable.

The local authority will issue an interim acknowledgement confirming that planning permission (if needed) was obtained. The acknowledgement will also contain a unique reference number (URN) referable to this application. When the work has been completed, the local authority should be advised, quoting the URN, of the exact cost of the works and a Letter of Certification should be requested.

## 2.14. How Owner Occupier Residential relief is claimed

Where tax is paid under the PAYE system, the first claim will be made, after the end of the first year for which there is entitlement to relief. The claim can be made using Revenue's online [Form 12](#) which can be accessed via [myAccount](#). The relief for subsequent years will be given as an adjustment to the individual's tax credits and will be included in the tax credit certificate each year for the remaining 9 years for which the relief is available. (Please note that this does not preclude Revenue from requesting an individual to complete and file a tax return during this period). If tax is

paid under the self-assessment system, the claim will be made in the return of income filed for each year. Any self-assessed individuals claiming the owner/occupier residential relief under the Living City Initiative are obliged to file their returns electronically (if they are not already obliged to do so) via the [Revenue Online Service \(ROS\)](#).

### 3. Rented Residential relief and Commercial relief:

#### 3.1. How the relief works

The rented residential and commercial elements of the scheme provide for tax relief over a 7 year period by way of an accelerated capital allowance. For the first six years relief is given at a rate of 15% of qualifying expenditure and 10% of the relief is available in year 7. While both residential elements of the relief (owner occupier and rented) are restricted to pre-1915 buildings, the commercial element is not so restricted. The maximum level of actual tax relief which can be obtained in respect of any individual project is capped at €200,000 in accordance with EU state aid rules.

#### 3.2. Conditions

- The premises must be located within a “special regeneration area”.
- In the case of a commercial premises it must be used, after refurbishment/conversion, for retail purposes or for the provision of services within the State or the premises must be let on bona fide commercial terms for such use.
- In the case of a rented residential premises, which must have been originally built prior to 1915, it must be let on bona fide commercial terms, after refurbishment/conversion, for use as a dwelling by the lessee.
- For a landlord of a rented residential premises to claim relief the relevant local authority must have issued a Letter of Certification (see [2.12 “Letter of Certification”](#) and [2.13 “The Application Process”](#)).
- The expenditure must relate to refurbishment or conversion only and not to “new build”. [2.11](#) above deals with the issue of an extension to a residential property.
- The expenditure must be incurred during the qualifying period. This means the period commencing on 5 May 2015 in the case of commercial premises and commencing on 1 January 2017 in the case of rented residential premises and ending on 4 May 2020 in both cases.
- There are overall limits on the amount of capital expenditure on any project which is to be treated as qualifying expenditure (see [3.4](#)).
- The expenditure on refurbishment/conversion must be at least €5,000.
- A property developer or a person connected with a property developer may not avail of capital allowances under the scheme in certain circumstances (see [3.5 “Non availability of relief”](#)).
- Where any part of the refurbishment or conversion expenditure is met directly or indirectly by the State or any State bodies, the amount of expenditure

qualifying for relief will be reduced by a multiple of three times the amount of that sum received or receivable<sup>3</sup>.

### 3.3. Meaning of expenditure incurred in the qualifying period

Only expenditure related to work actually carried out in the qualifying period can qualify for the relief. Provided the work is carried out in the period, the date of actual payment is not relevant. A late payment for work carried out before the commencement of the period does not qualify, nor does a pre-payment for work carried out after the end of the period.

### 3.4. Limits to expenditure that qualifies for relief

There is no limit to how much can be invested in the refurbishment/conversion of a premises. The limit is on the amount of relief which can be obtained. The limit of €200,000 is imposed on the project itself, so it does not matter how many investors there are, the relief is the same as if there were only one investor. A person can invest in more than one project and receive relief in respect of each project. Relief is only available for expenditure actually incurred.

There are a number of possible investment scenarios:

#### **One investor:**

If the investor is an individual the amount of expenditure that can qualify for relief is €400k, whereas if the investor is a company trading from the premises, the limit is €1.6m or if the investor is a company letting the premises, the limit is €800K.

#### **Two or more individuals/Two or more companies.**

If two or more individuals invest in a project, the amount of expenditure that qualifies for relief remains at €400k. So if one individual invested €200k and the other individual invested €600k (a ratio of 1:3) the amount of expenditure that can qualify for relief is likely to be split in the same ratio. In this case one investor would have €100k of expenditure and the other €300k. The legislation does not actually specify how the expenditure should be split but it does set the overall limit. From the point of view of the Exchequer, the cost is the same.

The situation is precisely the same in the case of two or more companies which invest, although in this case, the overall limit is €800k for companies in receipt of rental income and €1.6m for trading companies.

#### **Individuals and companies investing together.**

There are formulae in the legislation providing how to allocate the expenditure that can qualify for relief where individuals and companies invest together

**(A x 50%) + (B x 12.5%) cannot exceed €200k.**

Where -

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<sup>3</sup> Prior to 1/1/2017 expenditure incurred on refurbishing or converting a commercial premises could not qualify for capital allowances where any grant assistance was received.

**A** is the aggregate of qualifying expenditure by individuals, and  
**B** is the aggregate of qualifying expenditure by companies trading from the premises.

**(A x 50%) + (B x 25%) cannot exceed €200k.**

Where -

**A** is the aggregate of qualifying expenditure by individuals, and

**B** is the aggregate of qualifying expenditure by companies letting the property.

When the actual expenditure by individuals and companies is inputted into this formula the result may or may not exceed €200k.

- If the result does not exceed €200k, then those actual expenditure figures are the figures for expenditure that can qualify for relief.
- If the result exceeds €200k, then the actual expenditure figures must be reduced so that the result is equal to or below €200k. How much each investor's share of the overall expenditure that can qualify for relief is a matter for negotiation between the participants. It is not necessary for the legislation to prescribe how this should be done other than to set the overall limit.

### 3.5. Non availability of relief

Property developers or connected persons are precluded from obtaining relief under either the rented residential or retail/commercial elements of the scheme where either the property developer or the connected person incurred the capital expenditure on the refurbishment or conversion of the premises or it was incurred by some other person connected with the property developer.

### 3.6. General capital allowance provisions

The provisions that apply to industrial buildings and structures in Part 9 TCA 1997 ([Part 09-01-01](#)) apply in general to rented residential and commercial property that qualifies for relief under the Living City Initiative. Therefore, for example, the restriction on the offset of unused current year capital allowances against other income of €31,750 (section 409A) applies to individual passive investors. Additionally in the case of passive investors, it should be noted that any unused capital allowances under this scheme which are carried forward beyond the tax life<sup>4</sup> of the building to which they relate, are immediately lost (Chapter 4A of Part 12). However, the property relief surcharge (section 531AAE) which may apply to certain claimants under the commercial element of the scheme does not apply in the case of rented residential claimants.

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<sup>4</sup> Rented residential and commercial buildings qualifying for relief under this scheme have a tax life of 7 years from first use of the building.

### **3.7. How Rented Residential relief and Commercial relief is claimed**

Self-assessed persons claiming capital allowances on rented residential or commercial property under the Living City Initiative are obliged to file their returns electronically (if they are not already obliged to do so) via the [Revenue Online Service \(ROS\)](#).

### **3.8. Clawback of Rented Residential relief and Commercial relief**

Allowances granted for expenditure incurred on the refurbishment or conversion of rented residential or commercial property under this initiative may be withdrawn in whole or in part if the property is sold within 7 years of first use of the building concerned.

### **3.9. Undertakings in Difficulty**

Undertakings in difficulty are excluded from the rented residential and commercial elements of the scheme in accordance with the 2014 EU Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. A person is regarded as an undertaking in difficulty for the purposes of these Guidelines if that person, without intervention from the State, will almost certainly go out of business in the short or medium term.

## APPENDIX – definition of refurbishment and conversion

Definition of “**refurbishment**” for residential and commercial elements:

- "refurbishment", in relation to a building, structure or house, means any work of construction, reconstruction, repair or renewal, including the provision or improvement, of water, sewerage or heating facilities, carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of the building, structure or house.

Definition of "conversion" for residential element:

- "**conversion**", in relation to any building, structure or house means any work of -
  - conversion into a house of a building or part of a building where the building or, as the case may be, the part of the building has not, immediately prior to the conversion, been in use as a dwelling, and
  - conversion into 2 or more houses of a building or part of a building where before the conversion the building or, as the case may be, the part of the building has not, immediately prior to the conversion been in use as a dwelling or had been in use as a single dwelling,

including the carrying out of any necessary works of construction, reconstruction, repair or renewal, and the provision or improvement of water, sewerage or heating facilities, in relation to the building, or the part of the building, as the case may be.

Definition of "conversion" for commercial element:

- "**conversion**", in relation to a building or structure, means any work of conversion, reconstruction or renewal, into a building suitable for use for the purposes of the retailing of goods or the provision of services only within the State and includes the provision or improvement of water, sewerage or heating facilities carried out, or maintenance in the nature of repair.

These are the same definitions of refurbishment and conversion as used in previous property schemes.