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*Number 23 of 2021*

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**Finance (Covid-19 and Miscellaneous Provisions) Act 2021**

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ACTS REFERRED TO

Child Care Act 1991 (No. 17)

Emergency Measures in the Public Interest (Covid-19) Act 2020 (No. 2)

Housing (Miscellaneous Provisions) Act 1992 (No. 18)

Housing (Miscellaneous Provisions) Act 2009 (No. 22)

Social Welfare Consolidation Act 2005 (No. 26)

Stamp Duties Consolidation Act 1999 (No. 31)

Statute of Limitations 1957 (No. 6)

Taxes Consolidation Act 1997 (No. 39)

Value-Added Tax Consolidation Act 2010 (No. 31)



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*Number 23 of 2021*

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## **FINANCE (COVID-19 AND MISCELLANEOUS PROVISIONS) ACT 2021**

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An Act to provide for the imposition, repeal, remission, alteration and regulation of taxation and of stamp duties; to otherwise make further provision in connection with finance; to make provision for supports to employers and certain businesses; for that purpose to amend Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and other enactments; and to provide for related matters. [19th July, 2021]

**Be it enacted by the Oireachtas as follows:**

### **Definitions**

1. In this Act—

“Act of 1997” means the Taxes Consolidation Act 1997;

“Act of 1999” means the Stamp Duties Consolidation Act 1999;

“Act of 2010” means the Value-Added Tax Consolidation Act 2010;

“Act of 2020” means the Emergency Measures in the Public Interest (Covid-19) Act 2020.

### **Amendment of section 28B of Act of 2020**

2. (1) Section 28B of the Act of 2020 is amended—

(a) in subsection (1), by the substitution of the following definition for the definition of “qualifying period”:

“ ‘qualifying period’ means the period commencing on 1 July 2020 and expiring on 31 December 2021 or on such later day than 31 December 2021 as the Minister may specify in an order made by him or her under subsection (21)(a);”,

(b) in subsection (2A)—

(i) by the substitution of “the period from 1 January 2021 to 30 June 2021 (in this subsection referred to as ‘the second specified period’)” for “the period from 1 January 2021 to the date on which the qualifying period expires”, and

(ii) in paragraph (a)(i)(I), by the substitution of “in the second specified period” for “in the period from 1 January 2021 to 30 June 2021 (in this subsection referred to as ‘the second specified period’),”

(c) by the insertion of the following subsection after subsection (2A):

“(2B) Subject to subsections (4) and (5), this section shall apply to an employer for the period from 1 July 2021 to the date on which the qualifying period expires where—

(a) (i) in accordance with guidelines published by the Revenue Commissioners under subsection (20)(a), the employer demonstrates to the satisfaction of the Revenue Commissioners that, by reason of Covid-19 and the disruption that is being caused thereby to commerce—

(I) there will occur in the period from 1 January 2021 to 31 December 2021 (in this subsection referred to as ‘the third specified period’) at least a 30 per cent reduction, or such other percentage reduction as the Minister may specify in an order made by him or her under subsection (21)(b), in either the turnover of the employer’s business or in the customer orders being received by the employer by reference to the period from 1 January 2019 to 31 December 2019 (in this subsection referred to as ‘the third corresponding period’),

(II) in the case where the business of the employer has not operated for the whole of the third corresponding period but the commencement of that business’s operation occurred no later than 1 November 2019, there will occur in the part of the third specified period, which corresponds to the part of the third corresponding period in which the business has operated, at least a 30 per cent reduction, or such other percentage reduction as the Minister may specify in an order made by him or her under subsection (21)(b), in either the turnover of the employer’s business or in the customer orders being received by the employer by reference to that part of the third corresponding period, or

(III) in the case where the commencement of the operation of the employer’s business occurred after 1 November 2019, the nature of the business is such that the turnover of the employer’s business or the customer orders being received by the employer in the third specified period will be at least—

(A) 30 per cent, or

(B) such other percentage as the Minister may specify in an order made by him or her under subsection (21)(b),

less than what that turnover or those customer orders, as the case may be, would otherwise have been had there been no disruption caused to the business by reason of Covid-19,

or

(ii) the employer's name is entered in the register established and maintained under section 58C of the Child Care Act 1991,

and

(b) the employer satisfies the conditions specified in subsection (3).”,

(d) in subsection (3), by the substitution of “subsection (2)(b), (2A)(b) or (2B)(b)” for “subsection (2)(b) or (2A)(b)”,

(e) in subsection (5)—

(i) by the substitution of “by virtue of subsection (2) (apart from paragraph (a)(ii) thereof), (2A) (apart from paragraph (a)(ii) thereof) or (2B) (apart from paragraph (a)(ii) thereof)” for “by virtue of subsection (2) (apart from paragraph (a)(ii) thereof) or (2A) (apart from paragraph (a)(ii) thereof)”, and

(ii) in paragraph (b), by the substitution of “subsection (2)(a)(i), (2A)(a)(i) or (2B)(a)(i)” for “subsection (2)(a)(i) or (2A)(a)(i)”,

(f) in subsection (8), by the substitution of “30 September 2021” for “31 January 2021” in both places where it occurs,

(g) in subsection (17), by the substitution of “subsection (2), (2A) or (2B)” for “subsection (2) or (2A)” in both places where it occurs,

(h) in subsection (20)(a), by the substitution of “subsection (2), (2A) or (2B)” for “subsection (2) or (2A)”, and

(i) in subsection (21)—

(i) in paragraph (a)—

(I) by the substitution of “31 December 2021” for “31 March 2021”, and

(II) by the substitution of “30 June 2022” for “30 June 2021”,

and

(ii) in paragraph (b), by the substitution of “subsection (2)(a)(i), (2A)(a)(i) or (2B)(a)(i)” for “subsection (2)(a)(i) or (2A)(a)(i)”.

(2) *Subsection (1)* shall be deemed to have come into operation on 1 April 2021.

#### **Amendment of section 484 of Act of 1997**

3. (1) Section 484 of the Act of 1997 is amended in subsection (2)(a)(ii) by the substitution of “30 September 2021” for “31 March 2021”.

(2) *Subsection (1)* shall be deemed to have come into operation on 1 April 2021.

**Amendment of section 485 of Act of 1997****4. (1) Section 485 of the Act of 1997 is amended—****(a) in subsection (1)—**

- (i) in paragraph (d) of the definition of “Covid restrictions period end date”, by the substitution of “the date on which the specified period shall expire” for “31 March 2021”, and
- (ii) in the definition of “specified period”, by the substitution of “30 September 2021” for “31 March 2021”,

**(b) in subsection (2)(b)(iv), by the substitution of “the date on which the specified period shall expire” for “31 March 2021”,****(c) in subsection (3)(b), by the substitution of “30 September 2021” for “31 March 2021”,****(d) in subsection (7)—**

- (i) in paragraph (a)(i)(I), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 20 per cent,” after “10 per cent”,
- (ii) in paragraph (a)(i)(II), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 10 per cent,” after “5 per cent”,
- (iii) in paragraph (a)(ii)(I), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 20 per cent,” after “10 per cent”,
- (iv) in paragraph (a)(ii)(II), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 10 per cent,” after “5 per cent”, and
- (v) in paragraph (b), by the insertion of “or, where the claim relates to a period specified in subsection (8)(b)(ii)(II), €10,000 per week” after “€5,000 per week”,

and

**(e) in subsection (8), by the substitution of the following paragraph for paragraph (b):**

- “(b) (i) Where no part of the week immediately following the date on which the applicable business restrictions provisions ceased to be in operation in respect of a relevant business activity (referred to in this paragraph as the ‘restart week’) would

otherwise form part of a Covid restrictions period or a Covid restrictions extension period, a qualifying person to whom paragraph (a) applies may elect to treat a period specified in any of clauses (I) to (III) of subparagraph (ii) as a Covid restrictions extension period and may make a claim under this section in respect of that period.

- (ii) The period that a qualifying person may elect to treat as a Covid restrictions extension period for the purposes of subparagraph (i) shall be—
- (I) in a case where the restart week commences on or after 29 April 2021 and before 2 June 2021, a period of 2 weeks from the date on which the restart week commences,
- (II) in a case where the restart week commences on or after 2 June 2021 and before the date on which the specified period shall expire and the qualifying person has not elected to treat a period specified in clause (I) or this clause as a Covid restrictions extension period for the purposes of a claim under this section in respect of the relevant business activity concerned, a period of 3 weeks from the date on which the restart week commences, and
- (III) in all other cases, a period of one week from the date on which the restart week commences.”.

(2) *Subsection (1)* shall be deemed to have come into operation—

- (a) as respects *paragraphs (a) to (c)* thereof, on 1 April 2021, and
- (b) as respects *paragraphs (d) and (e)* thereof, on 29 April 2021.

### **Business Resumption Support Scheme**

5. The Act of 1997 is amended—

- (a) by the insertion of the following section after section 485:

#### **“Business Resumption Support Scheme**

**485A.** (1) In this section—

‘application period’ means the period commencing on 1 September 2021 and ending on 30 November 2021;

‘approved body of persons’ has the same meaning as in section 235;

‘chargeable period’ has the same meaning as in section 321(2);

‘charity’ has the same meaning as in section 208;

‘partnership trade’ has the same meaning as in section 1007;

‘precedent partner’, in relation to a partnership and a partnership trade, has the same meaning as in section 1007;

‘relevant business activity’ means, subject to subsection (2), a trade carried on by a person either solely or in partnership;

‘specified period’ means the period commencing on 1 September 2020 and ending on 31 August 2021;

‘tax’ means income tax or corporation tax;

‘tax reference number’ has the same meaning as in section 885;

‘trade’ means a trade any profits or gains arising from which is chargeable to tax under Case I of Schedule D.

(2) (a) Where a charity carries on a trade, the profits or gains arising from which would be chargeable to tax under Case I of Schedule D but for section 208(2)(b), that trade shall be regarded as a relevant business activity for the purposes of this section.

(b) Where an approved body of persons carries on a trade, the profits or gains arising from which would be chargeable to tax under Case I of Schedule D but for section 235(2), that trade shall be regarded as a relevant business activity for the purposes of this section.

(3) (a) In this section—

‘average weekly turnover from the established relevant business activity’ means—

(i) in the case of an established relevant business activity commenced before 26 December 2019, the average weekly turnover of the person, carrying on the activity, in respect of the established relevant business activity for the period—

(I) commencing on 1 January 2019 or, if later, the date on which the person commenced the relevant business activity, and

(II) ending on 31 December 2019,

and

(ii) in the case of an established relevant business activity commenced on or after 26 December 2019, the average weekly turnover of the person, carrying on the activity, in respect of the established relevant business activity for the period—

(I) commencing on the date on which the person commenced the relevant business activity, and

(II) ending on 15 March 2020;

‘average weekly turnover from the new relevant business activity’ means the average weekly turnover of the person, carrying on the activity, in respect of the new relevant business activity in the period commencing on the date on which the person commenced the relevant business activity and ending on 31 August 2020;

‘established relevant business activity’ means, in relation to a person, a relevant business activity commenced by that person before 10 March 2020;

‘new relevant business activity’ means, in relation to a person, a relevant business activity commenced by that person on or after 10 March 2020 and before 26 August 2020;

‘reference turnover amount’ means—

- (i) where a person carries on an established relevant business activity, an amount determined by the formula—

$$A \times B$$

where—

A is the average weekly turnover from the established relevant business activity, and

B is 52,

or

- (ii) where a person carries on a new relevant business activity, an amount determined by the formula—

$$A \times B$$

where—

A is the average weekly turnover from the new relevant business activity, and

B is 52;

‘turnover amount for the specified period’ means, in relation to a relevant business activity, the turnover of the person carrying on the activity, in respect of the relevant business activity, in the specified period.

- (b) Subject to subsection (4), this section shall apply to a person who—
- (i) carries on a relevant business activity in relation to which the turnover amount for the specified period is an amount that is 25 per cent (or less) of the reference turnover amount, and
- (ii) satisfies the conditions specified in subsection (4),

(hereafter referred to in this section as a ‘qualifying person’).

- (4) The conditions referred to in subsection (3)(b)(ii) are that—
- (a) the person has logged on to the online system of the Revenue Commissioners (in this section referred to as ‘ROS’) and applied on ROS to be registered as a person to whom this section applies and as part of that registration provides such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of registration and which particulars shall include those specified in subsection (10),
  - (b) the person completes an electronic claim form on ROS containing such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of determining the claim and which particulars shall include those specified in subsection (10),
  - (c) the person makes a declaration to the Revenue Commissioners through ROS that the person satisfies the conditions in this section to be regarded as a qualifying person,
  - (d) the person has complied with any obligations that apply to that person in respect of the registration for, and furnishing of returns relating to, tax, within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010,
  - (e) the person is throughout the application period eligible for a tax clearance certificate, within the meaning of section 1095, to be issued to the person,
  - (f) at the commencement of the application period, the person—
    - (i) is, in the course of carrying on a relevant business activity, making supplies of goods or services to customers of the relevant business activity, and
    - (ii) intends to continue to make such supplies,and
  - (g) the person is not entitled to make a claim under section 485 in respect of any week in which 1 September 2021 falls.
- (5) Subject to subsection (7), a qualifying person may make a claim under this section and shall be entitled to an amount equal to the lower of—
- (a) 3 times the amount determined by the formula—
$$(A \times 10 \text{ per cent}) + (B \times 5 \text{ per cent})$$
where—
    - A is the lower of €20,000 and the AWT,
    - B is the amount of the AWT, if any, in excess of

€20,000, and

AWT is the amount of the person's average weekly turnover from the established relevant business activity or average weekly turnover from the new relevant business activity, as the case may be,

and

(b) €15,000,

and any amount payable under this section is referred to in this section as an 'advance credit for trading expenses'.

- (6) A claim made under this section in respect of an advance credit for trading expenses shall, subject to subsection (19)(c), be made within the application period.
- (7) (a) Where a relevant business activity in respect of which a person is a qualifying person is carried on as a partnership trade, then any claim made under this section for an advance credit for trading expenses in respect of the relevant business activity shall be made by the precedent partner on behalf of the partnership and each of the partners in that partnership and the maximum amount of any such claim made in respect of the relevant business activity shall not exceed the lower of the amounts specified in subsection (5)(a) or (b), as the case may be.
- (b) Where a claim is made under this section by a precedent partner for an advance credit for trading expenses in respect of a relevant business activity carried on as a partnership trade then—
- (i) for the purposes of subsections (11) and (12), each partner shall be deemed to have claimed, in respect of that partner's several trade (within the meaning of section 1008), a portion of the advance credit for trading expenses calculated as—

$$A \times B$$

where—

A is the advance credit for trading expenses claimed by the precedent partner, and

B is the partnership percentage on 1 September 2021,

- (ii) the precedent partner shall, in respect of such claim, provide a statement to each partner in the partnership containing the following particulars—
- (I) the partnership name and its business address,

- (II) the amount of advance credit for trading expenses claimed by the precedent partner on behalf of the partnership and each partner,
  - (III) the profit percentage for each partner, and
  - (IV) the portion of the advance credit for trading expenses allocated to each partner,
- (iii) for the purposes of subsection (13), references to a person making a claim shall be taken as references to the precedent partner making the claim on behalf of the partnership and each of its partners, and
- (iv) for the purposes of subsection (14), section 1077E shall apply as if references to a person were references to each partner and the references to a claim were a reference to a claim deemed to have been made by each partner under subparagraph (i).
- (8) Any reference to ‘turnover’ in this section means any amount recognised as turnover in a particular period of time in accordance with the correct rules of commercial accounting, except for any amount recognised as turnover in that particular period of time due to a change in accounting policy.
- (9) Where a person makes a claim for an advance credit for trading expenses under this section, in computing the amount of the profits or gains of the trade, to which the relevant business activity relates, for the chargeable period in which the claim is made, the amount of any disbursement or expense which is allowable as a deduction, having regard to section 81, shall be reduced by the amount of the advance credit for trading expenses and the advance credit for trading expenses shall not otherwise be taken into account in computing the amount of the profits or gains of the trade for that chargeable period.
- (10) (a) The particulars referred to in paragraphs (a) and (b) of subsection (4) are those particulars the Revenue Commissioners consider necessary and appropriate for the purposes of determining a claim made under this section, including—
- (i) in relation to a qualifying person—
    - (I) name,
    - (II) address, including Eircode, and
    - (III) tax reference number,and
  - (ii) in relation to a relevant business activity—

- (I) the name under which the relevant business activity is carried on,
- (II) a description of the relevant business activity,
- (III) the business address, including Eircode,
- (IV) where the relevant business activity was commenced before 26 December 2019, the turnover of the qualifying person in respect of the relevant business activity in the period commencing on 1 January 2019 or, if later, the date on which the person commenced the relevant business activity, and ending on 31 December 2019,
- (V) where the relevant business activity was commenced on or after 26 December 2019 and before 10 March 2020, the date of commencement of the activity and the turnover of the qualifying person in respect of the relevant business activity in the period beginning on the date of commencement and ending on 15 March 2020,
- (VI) where a relevant business activity is a new relevant business activity, the date of commencement of the activity and the turnover of the qualifying person in respect of the new relevant business activity in the period beginning on the date of commencement and ending on 31 August 2020,
- (VII) the average weekly turnover in respect of an established relevant business activity or a new relevant business activity, for the period referred to in clause (IV), (V) or (VI), as the case may be,
- (VIII) in respect of tax, within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period referred to in clause (IV), (V) or (VI), as the case may be, the amount of tax that became due in accordance with section 76(1)(a)(i) of that Act,
- (IX) such other total income excluding the relevant business turnover in respect of the total tax returned in respect of section 76(1)(a)(i) of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period referred to in clause (IV), (V) or (VI), as the case may be,
- (X) the turnover of the qualifying person in respect of the relevant business activity in the specified period,
- (XI) the percentage reduction in turnover of the qualifying person in respect of the relevant business activity in the specified

period, as compared with the reference turnover amount,  
and

(XII) such other particulars, as the Revenue Commissioners may require.

(b) Subsequent to receiving the information requested under this section, the Revenue Commissioners may seek further particulars or evidence for the purposes of determining the claim.

(11) Where a company makes a claim under this section and it subsequently transpires that the claim was not one permitted by this section to be made, and the company has not repaid the amount as required by subsection (13)(a)(II)—

(a) the company shall be charged to tax under Case IV of Schedule D for the chargeable period in which the claim is made, on an amount equal to 4 times so much of the amount under this section as was not so permitted to be made, and

(b) an amount chargeable to tax under this subsection shall be treated as income against which no loss, deficit, credit, expense or allowance may be set off, and shall not form part of the income of a company for the purposes of calculating a surcharge under section 440.

(12) (a) Where a person other than a company to which subsection (11) applies (in this subsection referred to as a ‘relevant person’) makes a claim under this section and it subsequently transpires that the claim was not one permitted by this section to be made, and the relevant person has not repaid the amount as required by subsection (13)(a)(II), the relevant person shall be deemed to have received an amount of income equal to 5 times so much of the amount under this section as was not so permitted to be made (referred to in this subsection as the ‘unauthorised amount’).

(b) The unauthorised amount shall, notwithstanding any other provision of the Tax Acts, be deemed to be an amount of income arising on the day the claim is made that is chargeable to income tax under Case IV of Schedule D.

(c) Where the taxable income of a relevant person includes an amount pursuant to paragraph (b), the part of the taxable income equal to that amount shall be chargeable to income tax at the standard rate in force at the time of the payment of the advance credit for trading expenses but, where the relevant person is an individual, shall not—

(i) form part of the reckonable earnings chargeable to an amount of Pay Related Social Insurance Contributions under the Social Welfare Acts, and

- (ii) be an amount on which a levy or charge is required, by or under Part 18D.
  - (d) Notwithstanding section 458 or any other provision of the Tax Acts, in calculating the tax payable (within the meaning of Part 41A) on the unauthorised amount under this subsection, there shall be allowed no deduction, relief, tax credit or reduction in tax.
  - (e) In applying section 188 or Chapter 2A of Part 15, no account shall be taken of any income deemed to arise under this subsection or any income tax payable on that income.
- (13) (a) Where, subsequent to a person making a claim under this section, it transpires that—
- (i) the requirements in subsection (3)(b) are not met (and a claim in respect of which those requirements are not met is referred to hereafter in this subsection as an ‘invalid claim’), or
  - (ii) the amount claimed exceeds the amount the person is entitled to claim under this section (and a claim to which this subparagraph applies is referred to hereafter in this subsection as an ‘overclaim’),
- then the person shall, without unreasonable delay—
- (I) notify the Revenue Commissioners of the invalid claim or overclaim, as the case may be, and
  - (II) repay to the Revenue Commissioners—
    - (A) in respect of an invalid claim, the amount paid in respect of that claim, and
    - (B) in respect of an overclaim, the amount by which the amount paid in respect of that claim exceeds the amount the person is entitled to claim (hereafter referred to in this section as the ‘excess amount’).
- (b) Where a person makes a claim under this section and it subsequently transpires that the claim is an invalid claim or an overclaim, as the case may be—
- (i) then, subject to subparagraph (ii), the amount of the advance credit for trading expenses paid by the Revenue Commissioners in respect of the invalid claim, or the amount of the advance credit for trading expenses overpaid by the Revenue Commissioners in respect of an overclaim, as the case may be, shall carry interest as determined in accordance with section 1080(2)(c) as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners, and

- (ii) where the invalid claim or overclaim, as the case may be, was made neither deliberately nor carelessly (within the meaning of section 1077E) and the person complies with the requirements of paragraph (a)(II), the amount repaid to the Revenue Commissioners in respect of the invalid claim or overclaim, as the case may be, shall carry interest as determined in accordance with section 1080(2)(c) as if a reference to the date when the tax became due and payable were a reference to the date paragraph (a) is complied with.
  - (c) Paragraph (b) shall apply to tax payable on unauthorised amounts under subsections (11) and (12) as it applies to overpayments arising on invalid claims or overclaims.
- (14) Any claim made under this section shall be deemed for the purposes of section 1077E to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with subsection (11) or (12) of that section, a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a claim under this section made in connection with subsection (5).
- (15) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—
- (a) knowingly or wilfully delivers any incorrect return or statement, or knowingly or wilfully furnishes any incorrect information, in connection with the operation of this section or the eligibility for the advance credit for trading expenses in relation to any person, or
  - (b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return or statement, or knowingly or wilfully furnish any incorrect information in connection with the operation of this section or the eligibility for the advance credit for trading expenses in relation to any person,
- and the provisions of subsections (3) to (10) of section 1078, and section 1079, shall, with any necessary modifications, apply for the purposes of this subsection as they apply for the purposes of offences in relation to tax within the meaning of section 1078.
- (16) The administration of this section shall be under the care and management of the Revenue Commissioners and section 849 shall apply for this purpose with any necessary modifications as it applies in relation to tax within the meaning of that section.
- (17) The Revenue Commissioners shall prepare and publish guidelines with respect to matters that are considered by them to be matters to which

regard shall be had in determining whether the turnover of a person in respect of a relevant business activity in the specified period does not exceed an amount that is 25 per cent (or less) of the reference turnover amount.

- (18) Notwithstanding any obligations imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the details referred to in clauses (I) and (III) of subsection (10)(a)(ii) shall, for all persons to whom an advance credit for trading expenses has been paid by the Revenue Commissioners under this section, be published on the website of the Revenue Commissioners.
- (19) (a) Where a Revenue officer determines that a person is not a qualifying person, the Revenue officer shall notify the person in writing accordingly.
- (b) A person aggrieved by a determination under paragraph (a) may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on the notice of the determination.
- (c) Where the Appeal Commissioners determine that a person is a qualifying person, the person may make a claim under this section no later than 12 weeks from the date that determination is issued.
- (d) The reference to the Tax Acts in paragraph (a) of the definition of ‘Acts’ in section 949A shall be read as including a reference to this section.”

and

- (b) in Schedule 29, in column 1, by the insertion of “section 485A”.

#### **Amendment of section 46 of Act of 2010**

6. Section 46 of the Act of 2010 is amended in subsection (1)(cb) by the substitution of “31 August 2022” for “31 December 2021”.

#### **Covid-19: special warehousing and interest (relevant tax due under section 28B(11))**

7. The Act of 2020 is amended by the insertion of the following section after section 28C:

#### **“Covid-19: special warehousing and interest (relevant tax due under section 28B(11))**

**28D.** (1) In this section—

‘the Acts’ has the same meaning as it has in section 28C;

‘Covid-19 relevant tax’ means relevant tax, as referred to in subsection (12) of section 28B, due and payable during Period 1 in accordance with that subsection;

‘Period 1’, in relation to an employer, means the period beginning on 1 July 2020 and ending on 31 December 2021;

‘Period 2’, in relation to an employer, means the period beginning on 1 January 2022 and ending on 31 December 2022;

‘Period 3’, in relation to an employer, means the period beginning on 1 January 2023 and ending on the day on which the employer has discharged the employer’s liability in respect of the Covid-19 relevant tax in full.

- (2) This section shall apply to an employer—
- (a) who, as a consequence of the effect on the employer’s business of Covid-19 is unable to pay all or part of the employer’s liability in respect of Covid-19 relevant tax,
  - (b) who complies with the requirements under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 and this Part, and
  - (c) either—
    - (i) the employer’s tax affairs are administered by the Personal Division or Business Division of the Office of the Revenue Commissioners, or
    - (ii) the employer has formed the view that the employer is unable to pay all or part of the employer’s liability in respect of Covid-19 relevant tax and has notified the Revenue Commissioners that the employer has formed such a view.
- (3) For the purposes of subsection (2)(c)(i), an employer’s tax affairs shall be treated as being administered by the Personal Division or Business Division of the Office of the Revenue Commissioners where the most recent correspondence received by the employer from that Office indicates that to be the case.
- (4) An officer authorised under section 990 of the Taxes Consolidation Act 1997 may make such enquiries as he or she considers necessary to satisfy himself or herself as to whether an employer is unable to pay the employer’s liability in respect of Covid-19 relevant tax.
- (5) Where this section applies to an employer, section 28B(15) shall not apply to the employer’s liability in respect of Covid-19 relevant tax.
- (6) Where—
- (a) this section applies to an employer, and

- (b) the employer complies with the employer's obligations under the Acts,

no interest shall be due and payable by the employer in relation to the employer's liability in respect of Covid-19 relevant tax during Period 1 and Period 2.

- (7) Where—

- (a) this section applies to an employer,
- (b) the employer complies with the employer's obligations under the Acts,
- (c) the employer has, prior to Period 3, entered into an agreement with the Collector-General to pay the employer's liability in respect of Covid-19 relevant tax, together with interest under this subsection, and
- (d) the employer complies with the obligations of the employer under the agreement referred to in paragraph (c),

from the first day of Period 3 simple interest shall be paid by the employer to the Revenue Commissioners in relation to any amount of the Covid-19 relevant tax remaining unpaid and such interest shall be calculated from that day until payment of the amount for any day or part of a day during which that amount remains unpaid, at a rate of 0.0082 per cent.

- (8) Where an employer—

- (a) during Period 1 or Period 2, fails to comply with an obligation referred to in subsection (6)(b),
- (b) on the first day of Period 3, has not entered into an agreement referred to in subsection (7)(c), or
- (c) during Period 3, fails to comply with an obligation referred to in subsection (7)(b) or (d),

simple interest shall be paid by the employer to the Revenue Commissioners in relation to any amount of the Covid-19 relevant tax remaining unpaid from—

- (i) in a case in which paragraph (a) or (c) applies, the date on which the event resulting in failure to comply with the obligation concerned occurred, and
- (ii) in a case in which paragraph (b) applies, the first day of Period 3,

and such interest shall be calculated from that day until payment of the amount for any day or part of a day during which that amount remains unpaid, at a rate of 0.0219 per cent.

- (9) Where an employer has complied with the requirements under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 and this Part, the failure of the employer to pay Covid-19 relevant tax shall not, for the purpose of section 1094 or 1095 of the Taxes Consolidation Act 1997, be treated as a failure to comply with the obligations imposed on the employer by the Acts (within the meaning of section 1094 or 1095, as the case may be).
- (10) Section 960E(2) of the Taxes Consolidation Act 1997 shall not apply in respect of Covid-19 relevant tax where the employer concerned complies with the employer's requirements under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 and this Part.”.

**Amendment of section 28C of Act of 2020****8.** Section 28C of the Act of 2020 is amended—

## (a) in subsection (1)—

(i) in paragraph (a) of the definition of “the Acts”, by the insertion of “of the Taxes Consolidation Act 1997” after “Parts 18C and 18D”,

(ii) in the definition of “Period 1”, by the substitution of the following paragraph for paragraph (b):

“(b) ending on 31 December 2021;”,

(iii) by the substitution of the following definition for the definition of “Period 2”:

“ ‘Period 2’, in relation to an employer, means the period beginning on 1 January 2022 and ending on 31 December 2022;”,

(iv) by the substitution of the following definition for the definition of “Period 3”:

“ ‘Period 3’, in relation to an employer, means the period beginning on 1 January 2023 and ending on the day on which the employer has discharged the employer's liability in respect of the Covid-19 relevant tax in full.”,

and

(v) by the deletion of the definitions of “recommencement date” and “taxable period”,

and

(b) by the deletion of subsection (11).

**Amendment of section 991B of Act of 1997****9.** Section 991B of the Act of 1997 is amended—

- (a) in subsection (1)—
- (i) in the definition of “Covid-19 liabilities”, by the substitution of “subsection (14)” for “subsections (14) and (15)”,
  - (ii) in the definition of “Period 1”, by the substitution of the following paragraph for paragraph (b):
 

“(b) ending on 31 December 2021;”,
  - (iii) by the substitution of the following definition for the definition of “Period 2”:
- “ ‘Period 2’, in relation to an employer, means the period beginning on 1 January 2022 and ending on 31 December 2022;”,
- (iv) by the substitution of the following definition for the definition of “Period 3”:
- “ ‘Period 3’, in relation to an employer, means the period beginning on 1 January 2023 and ending on the day on which the employer has discharged the Covid-19 liabilities in full.”,
- and
- (v) by the deletion of the definitions of “recommencement date” and “taxable period”,
- (b) in subsection (14), by the insertion of “or annually” after “quarterly”, and
- (c) by the deletion of subsections (15) and (16).

**Amendment of section 1080B of Act of 1997**

**10.** Section 1080B of the Act of 1997 is amended—

- (a) in subsection (1)—
- (i) in the definition of “Period 1”—
    - (I) by the deletion of “, subject to subsection (6),” and
    - (II) by the substitution of the following paragraph for paragraph (b):
 

“(b) ending on 31 December 2021;”,
  - (ii) by the substitution of the following definition for the definition of “Period 2”:
- “ ‘Period 2’, in relation to a relevant person, means the period beginning on 1 January 2022 and ending on 31 December 2022;”,
- and
- (iii) by the substitution of the following definition for the definition of “Period 3”:

“ ‘Period 3’, in relation to a relevant person, means the period beginning on 1 January 2023 and ending on the day on which the relevant person has discharged the Covid-19 income tax in full;”,

- (b) in subsection (3), by the insertion of “due and payable on the date on which Period 1 begins” after “the relevant person’s Covid-19 income tax”, and
- (c) in subsection (4), by the insertion of “due and payable on the date on which Period 1 begins” after “the relevant person’s Covid-19 income tax”.

#### **Amendment of section 114B of Act of 2010**

##### **11. Section 114B of the Act of 2010 is amended—**

(a) in subsection (1)—

- (i) in the definition of “Period 1”, by the substitution of the following paragraph for paragraph (b):

“(b) ending on 31 December 2021;”,

- (ii) by the substitution of the following definition for the definition of “Period 2”:

“ ‘Period 2’, in relation to an accountable person, means the period beginning on 1 January 2022 and ending on 31 December 2022;”,

- (iii) by the substitution of the following definition for the definition of “Period 3”:

“ ‘Period 3’, in relation to an accountable person, means the period beginning on 1 January 2023 and ending on the day on which the accountable person has discharged the Covid-19 liabilities in full.”,

and

- (iv) by the deletion of the definition of “recommencement date”,

and

- (b) by the deletion of subsection (15).

#### **Amendment of section 17C of Social Welfare Consolidation Act 2005**

##### **12. Section 17C of the Social Welfare Consolidation Act 2005 is amended—**

(a) in subsection (1)—

- (i) in the definition of “Covid-19 liabilities”, by the substitution of “subsection (13)” for “subsections (13) and (14)”,

- (ii) in the definition of “Period 1”, by the substitution of the following paragraph for paragraph (b):

“(b) ending on 31 December 2021;”,

- (iii) by the substitution of the following definition for the definition of “Period 2”:

“ ‘Period 2’, in relation to an employer, means the period beginning on 1 January 2022 and ending on 31 December 2022;”,

- (iv) by the substitution of the following definition for the definition of “Period 3”:

“ ‘Period 3’, in relation to an employer, means the period beginning on 1 January 2023 and ending on the day on which the employer has discharged the Covid-19 liabilities in full.”,

and

- (v) by the deletion of the definitions of “recommencement date” and “taxable period”,

- (b) in subsection (13), by the insertion of “or annually” after “quarterly”, and

- (c) by the deletion of subsections (14) and (15).

### **Amendment of Act of 1999**

#### **13.** The Act of 1999 is amended—

- (a) by the insertion of the following section after section 31D:

#### **“Stamp duty on certain acquisitions of residential property**

##### **31E.** (1) In this section—

‘Act of 1997’ means the Taxes Consolidation Act 1997;

‘apartment block’ means a multi-storey residential property that comprises, or will comprise, not less than 3 apartments with grouped or common access;

‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions;

‘connected’ shall be construed in accordance with section 10 of the Act of 1997;

‘relevant residential unit’ shall be construed in accordance with subsection (5);

‘residential unit’ means residential property situated in the State comprising an individual dwelling.

- (2) Subject to subsection (3), for the purposes of this section, a person shall be treated as acquiring a residential unit—

- (a) in the case of a conveyance or transfer on sale of the residential unit, on the date of execution of the conveyance or transfer, as the case may be,

- (b) in the case of a lease in respect of the residential unit for a definite term exceeding 35 years, on the date of execution of the lease,
  - (c) in the case of an instrument, referred to in section 29(2), effecting the sale of land on which the residential unit has been built or is in the course of being built, on the date of execution of the instrument,
  - (d) in the case of a conveyance or transfer, referred to in section 30(1), operating as a voluntary disposition *inter vivos* of the residential unit, on the date of execution of the conveyance or transfer, as the case may be,
  - (e) in the case of a contract or agreement, referred to in section 31(1), for the sale of any equitable estate or interest in the residential unit, on the date of execution of the contract or agreement, as the case may be,
  - (f) in the case of an instrument, referred to in section 33(1), whereby the residential unit is conveyed or transferred in contemplation of a sale of the residential unit, on the date of execution of the instrument, and
  - (g) in the case of an instrument, referred to in section 37, effecting a conveyance or transfer of the residential unit in exchange for any other property, on the date of execution of the instrument.
- (3) Where the acquisition of a residential unit is effected by more than one instrument referred to in subsection (2), the residential unit shall be treated as being acquired on the earliest to occur of the dates on which, under that subsection, it is so treated as being acquired.
- (4) In this section, a reference to acquisition shall include a reference to acquisition by way of a conveyance, transfer, lease, instrument, contract or agreement referred to in subsection (2).
- (5) Where—
- (a) a person (in this subsection and subsection (6) referred to as the ‘first-mentioned person’) acquires a residential unit on or after 20 May 2021, and
  - (b) the total of—
    - (i) the residential units acquired by the first-mentioned person or a person connected with that person in the 12 months immediately preceding the day on which the residential unit referred to in paragraph (a) is acquired (in this subsection referred to as the ‘relevant day’),
    - (ii) the residential unit referred to in paragraph (a), and

(iii) any other residential units acquired by the first-mentioned person or a person connected with that person on the relevant day,

is greater than or equal to 10 residential units,

each of the residential units comprised in that total shall be a relevant residential unit.

(6) For the purposes of subsection (5), in a case in which the first-mentioned person or a person connected with the first-mentioned person referred to in subsection (5)(b)(i) or (iii) is an individual, no account shall be taken of the residential units acquired by the connected person where—

(a) the first-mentioned person and the connected person are not acting in concert in relation to the acquisition of those units, and

(b) the acquisition of any of those units is not part of an arrangement, one of the main purposes of which is to avoid the unit being a relevant residential unit.

(7) For the purposes of subsection (5), no account shall be taken of a residential unit in an apartment block.

(9) This subsection applies to—

(a) stocks or marketable securities in a company (within the meaning of section 4 of the Act of 1997),

(b) units (within the meaning of section 88(1)(a)) in an IREF (within the meaning of section 31C), or

(c) interests in a partnership, being a partner's share or interest in a partnership,

that derive value, directly or indirectly, from a residential unit.

(10) For the purposes of subsection (9), the reference to deriving value indirectly from a residential unit shall include value that is derived from other stocks, marketable securities, units or interests, as the case may be, to which that subsection applies.

(11) In calculating the part of the value of the stocks, marketable securities, units or interests, as the case may be, that is derived, directly or indirectly, from a residential unit for the purposes of subsection (9)—

(a) account shall not be taken of any arrangement—

(i) that involves a transfer of money or other assets, apart from a residential unit, from a person who is connected with the company, IREF or partnership, as the case may be, in which those stocks, marketable securities, units or interests are held,

- (ii) that is made before a conveyance or transfer on sale of stocks, marketable securities, units or interests to which subsection (9) applies, and
  - (iii) the main purpose, or one of the main purposes, of which is the avoidance of liability to any tax or duty, and
- (b) regard shall be had to the market value of the residential unit from which the value is derived.

(12) Where—

- (a) there exists a conveyance or transfer on sale of stocks, marketable securities, units or interests to which subsection (9) applies, and
- (b) such conveyance or transfer on sale results in a change in the person or persons having direct or indirect control over the residential unit concerned,

the conveyance or transfer on sale concerned shall be chargeable to stamp duty—

- (i) under paragraph (1) of the heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ in Schedule 1 as respects that part of the value of the stocks, marketable securities, units or interests, as the case may be, that is derived from a relevant residential unit, and
- (ii) under the heading ‘CONVEYANCE or TRANSFER on sale of any stocks or marketable securities’ in Schedule 1 as respects that part of the value of the stocks, marketable securities, units or interests, as the case may be, that is not derived from a relevant residential unit.

(13) Where—

- (a) there is a change in the ownership of a company, IREF or partnership that results in a change in the person or persons having direct or indirect control over a residential unit, and
- (b) any contract or agreement giving direct or indirect effect to such change is not otherwise chargeable to stamp duty,

then the contract or agreement shall be treated as a conveyance or transfer on sale of stocks, marketable securities, units or interests for the purposes of subsection (12).

- (14) Where stocks or marketable securities, units or interests to which subsection (9) applies were owned at one time by one person, or by persons who are acting in concert or who are connected persons, and are conveyed or transferred by that person or those persons in parts—

- (a) to another person, or
  - (b) to other persons who are acting in concert or who are connected persons,  
  
whether or not on the same or different occasions, the several conveyances or transfers shall, for the purposes of this section, be treated as a single conveyance or transfer.
- (15) For the purposes of subsection (5), the person or persons acquiring direct or indirect control over a residential unit in the circumstances described in subsection (12) or (13), as the case may be, shall be treated as acquiring the residential unit with the date of the acquisition being, as the case may be, the date of—
- (a) the execution of the conveyance or transfer on sale, or
  - (b) the execution of the contract or agreement.
- (16) Any stamp duty chargeable in respect of a relevant residential unit and any associated interest or other monetary penalty amount which is due and unpaid shall be and remain a charge on the relevant residential unit to which it relates and, notwithstanding the Statute of Limitations 1957, shall continue to apply without a time limit until such time as it is paid in full.
- (17) This subsection applies to—
- (a) a relevant residential unit in respect of the acquisition of which—
    - (i) a binding contract was entered into before 20 May 2021, and
    - (ii) the instrument effecting the acquisition is executed before 20 August 2021 and is accompanied by a statement, in such form as the Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 20 May 2021,  
and
  - (b) a relevant residential unit the acquisition of which was effected before 20 May 2021.
- (18) The furnishing of an incorrect certificate for the purposes of subsection (17)(a)(ii) shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 1078 of the Act of 1997.
- (19) Sections 82(1), 82C(2) and 88(1)(b) shall not apply where the conveyance, transfer or lease concerned effects the acquisition of a relevant residential unit.
- (20) This subsection applies where a residential unit (in subsection (21) referred to as the ‘first-mentioned residential unit’) is not a relevant

residential unit on the date on which it is acquired but becomes a relevant residential unit as a consequence of the acquisition of another residential unit on a date falling after that date (in subsection (21) referred to as the ‘later date’).

(21) Where—

- (a) subsection (20) applies, and
- (b) the first-mentioned residential unit is not a relevant residential unit to which subsection (17) applies,

section 2(1) shall apply in respect of the additional stamp duty that has become chargeable by virtue of the first-mentioned residential unit becoming a relevant residential unit as if the instrument effecting the acquisition of the first-mentioned residential unit was executed on the later date.

(22) Where subsection (12) or (13) applies and the conveyance or transfer on sale, or the contract or agreement, as the case may be, referred to in those subsections would also be chargeable to stamp duty under section 31C or 31D, then those sections shall operate to charge stamp duty only as respects that part of the value of the stocks, marketable securities, units or interests, as the case may be, that is not derived from a relevant residential unit.”,

and

(b) in Schedule 1—

- (i) in the heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance” by the substitution of the following paragraph for paragraph (1):

“

<p>(1) Where the amount or value of the consideration for the sale is wholly or partly attributable to residential property and the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which, had there been a larger transaction or a series of transactions, the amount or value, or the aggregate amount or value, of the consideration (other than the consideration for the sale concerned which is wholly or partly attributable to residential property) would have been wholly or partly attributable to residential property:</p>	
<p>(a) for the consideration which is attributable to—</p> <p>(i) residential property which is not a relevant residential unit, within the meaning of section 31E, or</p> <p>(ii) residential property which is a relevant residential unit, within the meaning of section 31E, to which subsection (17) of that section applies.</p>	<p>1 per cent of the first €1,000,000 of the consideration and 2 per cent of the balance of the consideration thereafter, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.</p>
<p>(b) for the consideration which is attributable to a relevant residential unit, within the meaning of section 31E, other than a relevant residential unit to which subsection (17) of that section applies.</p>	<p>10 per cent of the consideration, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.</p>

”

and

- (ii) in the heading “LEASE”, by the substitution of the following clause for clause (i) of paragraph (3)(a):

“

<p>(i) the amount or value of such consideration for the lease is wholly or partly attributable to residential property and the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which, had there been a larger transaction or a series of transactions, the amount or value, or the aggregate amount or value, of the consideration (other than the consideration for the lease concerned which is wholly or partly attributable to residential property and other than rent) would have been wholly or partly attributable to residential property:</p>	
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<p>(I) for the consideration which is attributable to—</p> <p>(A) residential property which is not a relevant residential unit, within the meaning of section 31E, or</p> <p>(B) residential property which is a relevant residential unit, within the meaning of section 31E, in respect of instruments to which subsection (17) of that section applies;</p>	<p>1 per cent of the first €1,000,000 of the consideration and 2 per cent of the balance of the consideration thereafter, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.</p>
<p>(II) for the consideration which is attributable to a relevant residential unit, within the meaning of section 31E, in respect of instruments other than a relevant residential unit to which subsection (17) of that section applies.</p>	<p>10 per cent of the consideration, but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.</p>

”.

#### Further amendment of Act of 1999

14. (1) Section 31E of the Act of 1999 (as inserted by *section 13*) is amended—

(a) in subsection (1), by the insertion of the following definitions:

“ ‘Act of 1992’ means the Housing (Miscellaneous Provisions) Act 1992;

‘Act of 2009’ means the Housing (Miscellaneous Provisions) Act 2009;

‘household’ has the same meaning as it has in the Act of 2009;

‘housing authority’ has the same meaning as it has in the Act of 1992;

‘housing authority lease’ means a lease entered into by a housing authority under section 19 of the Act of 2009;

‘qualified household’ means a household that has been determined, in accordance with a social housing assessment, to be qualified for social housing support;

‘social housing assessment’ has the same meaning as it has in the Act of 2009;

‘social housing support’ has the same meaning as it has in the Act of 2009.”,

and

(b) by the insertion of the following subsection after subsection (7):

“(8) Where—

(a) a person acquires, on or after the day after the date of the passing of the *Finance (Covid-19 and Miscellaneous Provisions) Act 2021*, a residential unit by way of a conveyance or transfer on sale of the residential unit,

(b) on the same day as the residential unit is acquired by the person, the person enters into a housing authority lease in respect of the residential unit, and

(c) the lease is entered into by the housing authority for the purpose of the provision of social housing support to a qualified household,  
for the purposes of subsection (5), no account shall be taken of the residential unit.”.

(2) *Subsection (1)* shall come into operation on the day after the date of the passing of this Act.

### **Repayment of stamp duty where certain residential units leased**

**15.** (1) The Act of 1999 is amended by the insertion of the following section after section 83D:

“**83E.**(1) In this section—

‘Act of 1992’ means the Housing (Miscellaneous Provisions) Act 1992;

‘approved housing body’ means a body approved of or standing approved of, under, or for the purposes of, section 6 of the Act of 1992;

‘housing authority’ has the same meaning as it has in the Act of 1992;

‘Minister’ means the Minister for Housing, Local Government and Heritage;

‘qualifying date’ means the date on which a qualifying lease is executed;

‘qualifying lease’ means a lease, for a term of not less than 10 years, in respect of a relevant residential unit entered into with a housing authority or an approved housing body for the purpose of the provision of social housing support;

‘qualifying relevant residential unit’ has the meaning assigned to it by subsection (3);

‘relevant instrument’ means an instrument executed on or after 20 May 2021 that has been stamped in accordance with—

- (a) paragraph (1)(b) of the heading in Schedule 1 titled ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’, or
- (b) paragraph (3)(a)(i)(II) of the heading in Schedule 1 titled ‘LEASE’, where the instrument was chargeable, in respect of the whole or part of the consideration under the instrument, to stamp duty at a rate of 10 per cent;

‘relevant residential unit’ has the same meaning as it has in section 31E;

‘social housing support’ has the same meaning as it has in the Housing (Miscellaneous Provisions) Act 2009.

- (2) In this section, a reference to acquisition shall include a reference to acquisition by way of a conveyance, transfer, lease, instrument, contract or agreement referred to in section 31E(2).
- (3) This subsection applies where a person executes a qualifying lease not later than 24 months after the date of execution of a relevant instrument effecting the acquisition of the relevant residential unit leased under the qualifying lease (and such a relevant residential unit leased within that period is referred to in this section as a ‘qualifying relevant residential unit’).
- (4) Where subsection (3) applies, subject to the other provisions of this section, stamp duty paid on a relevant instrument may be repaid in accordance with this section.
- (5) The amount of stamp duty to be repaid, in relation to a relevant instrument and a qualifying relevant residential unit shall be determined by the formula—

A - B

where—

A is the amount of stamp duty paid on the relevant instrument, that was attributable to the qualifying relevant residential unit, and

B is the amount of stamp duty, attributable to the qualifying relevant residential unit, that would have been chargeable on the execution of the relevant instrument if the qualifying relevant residential unit had not been a relevant residential unit.

- (6) A claim for a repayment under this section shall—
- (a) be made by an accountable person,
  - (b) without prejudice to paragraph (d), be made in a form and manner specified by the Commissioners,
  - (c) include a declaration, in such form as the Commissioners specify, stating that subsection (3) applies,
  - (d) be made by electronic means and through such electronic systems as the Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply, and
  - (e) not be made until such time as a qualifying lease has been executed.
- (7) Subject to the other provisions of this section, a repayment of stamp duty under this section shall—
- (a) be made by the Commissioners pursuant to a claim made in accordance with subsection (6),
  - (b) not carry interest, and
  - (c) not be made pursuant to a claim made after the expiry of 4 years after the qualifying date.
- (8) Where the Commissioners are of the opinion that the requirements of this section have not been met in relation to a claim for repayment, they shall decide to refuse the claim and shall notify the claimant in writing of the decision and the reasons for it.
- (9) An accountable person aggrieved by a decision to refuse a claim for repayment, may appeal to the Appeal Commissioners against the decision in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notification of the decision.
- (10) Where—

- (a) subsection (3) applies in respect of a qualifying lease of a qualifying relevant residential unit,
- (b) a repayment of stamp duty has been made to an accountable person in respect of the qualifying relevant residential unit in accordance with this section by virtue of subsection (3) so applying, and
- (c) the qualifying lease is terminated before the expiry of 10 years after the qualifying date,

the accountable person shall be liable to pay to the Commissioners some or all of the stamp duty that had been repaid under subsection (7) to the accountable person (and that stamp duty to which the foregoing liability attaches is referred to in this section as a 'clawback').

- (11) The amount of a clawback shall be determined by the formula—

$$A \times [(10 - Y)/10]$$

where—

A is the amount of stamp duty repaid that was attributable to the qualifying relevant residential unit,

Y is the number of years (including a part of a year) that have expired, after the qualifying date, on the date on which the qualifying lease is terminated.

- (12) Interest shall be payable on the clawback calculated in accordance with section 159D from the date on which the repayment was made to the date of payment of the clawback to the Commissioners.
- (13) Where an accountable person fails to pay the clawback, the Commissioners may make an assessment of the amount of the stamp duty concerned as if the failure to pay were a failure to deliver a return under section 20(2).
- (14) Where there is more than one accountable person in relation to an instrument and a clawback, they shall be liable jointly and severally whether or not an assessment is made.
- (15) For the purposes of this section, section 128A shall apply as if the period of 6 years referred to in subsection (4) of that section commenced on the qualifying date.
- (16) Where a repayment has been made under this section and it is subsequently found that a declaration made in accordance with subsection (6)—
  - (a) was untrue in any material particular that would have resulted in a repayment, or part of a repayment, allowed by this section not being made, and

- (b) was made knowing same to be untrue or in reckless disregard as to whether or not it was true,

then the person who made such a declaration shall be liable to pay to the Commissioners as a penalty an amount equal to 125 per cent of the stamp duty that would not have been repaid had all the facts been truthfully declared, together with interest charged on that amount as may so become payable, calculated in accordance with section 159D, from the date on which the repayment was made to the date the penalty is paid.

- (17) Where a person is liable to pay, in relation to a qualifying relevant residential unit, a clawback under subsection (10) and a penalty under subsection (16), the total liability of the person under those subsections shall be limited to the greater of the clawback under subsection (10) and the penalty under subsection (16).
- (18) Notwithstanding any enactment or rule of law, the Commissioners may, by notice in writing, request the Minister to provide them with such information as is in the possession or control of the Minister as the Commissioners may reasonably require for the purposes of verifying—
- (a) the execution of a qualifying lease, or
- (b) the termination of a qualifying lease within the period of 10 years immediately following the qualifying date.
- (19) Where the Commissioners make a request under subsection (18), the Minister shall provide such information as may be specified in the notice within the period specified in the notice which period, in any case, shall not be less than 30 days.
- (20) Taxpayer information within the meaning of section 851A(1) of the Taxes Consolidation Act 1997 may be disclosed by a Revenue officer to the Minister for the purposes of enabling the Minister to comply with a request made under subsection (18).”.
- (2) *Subsection (1)* shall come into operation on the day after the date of the passing of this Act.

**Short title**

16. This Act may be cited as the Finance (Covid-19 and Miscellaneous Provisions) Act 2021.