



Number 59 of 2015

FINANCE (TAX APPEALS) ACT 2015

REVISED

Updated to 18 December 2023

This Revised Act is an administrative consolidation of the *Finance (Tax Appeals) Act 2015*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Finance (No. 2) Act 2023 (39/2023)*, enacted 18 December 2023, and all statutory instruments up to and including the *Broadcasting Act 2009 (Section 21) Levy Order 2023 (S.I. No. 657 of 2023)*, made 18 December 2023, were considered in the preparation of this Revised Act.

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[2015.]

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FINANCE (TAX APPEALS) ACT 2015

REVISED

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An Act to revise the law concerning the making of appeals in matters of taxation (including in respect of stamp duties and of duties relating to customs and excise) and, for that purpose, to establish a body to be known as An Coimisiún um Achomhairc Chánach or, in the English language, the Tax Appeals Commission, and to define its functions, to amend the Taxes Consolidation Act 1997 and certain other enactments in respect of appeals of the foregoing kind and to provide for related matters.

[25 *th* December, 2015]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Finance (Tax Appeals) Act 2015.
- (2) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Annotations

Editorial Notes:

E1 Power pursuant to subs. (2) exercised (26.02.2016) by *Finance (Tax Appeals) Act 2015 (Commencement) Order 2016* (S.I. No. 110 of 2016).

2. The 21st day of March 2016 is appointed as the day on which the Finance (Tax Appeals) Act 2015 (No. 59 of 2015) comes into operation.

Interpretation

2. In this Act—

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

“Appeal Commissioner” or “Commissioner” means, unless the context otherwise requires, a member of the Commission;

F1["chairperson" means the chairperson of the Commission;]

“Commission” shall be read in accordance with *section 3(1)*;

“establishment day” shall be read in accordance with *section 3(2)*;

“Minister” means the Minister for Finance;

“Taxation Acts” means—

(a) the Tax Acts (within the meaning of section 1 of the Act of 1997),

(b) the Capital Gains Tax Acts (within the meaning of section 1 of the Act of 1997),

F2[(c) Parts 4A, 18A to 18D and 22A of the Act of 1997,]

F3[(ca) Part 22B of the Act of 1997,]

(d) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,

(e) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,

(f) the Value-Added Tax Consolidation Act 2010, and the enactments amending or extending that Act,

(g) the statutes relating to the duties of excise and to the management of those duties,

(h) the Customs Act 2015, and the enactments amending or extending that Act,

(i) the Finance (Local Property Tax) Act 2012, and the enactments amending or extending that Act,

F4[(j) the Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023,]

and any instrument made thereunder and any instrument that is made under any other enactment and which relates to tax (including in respect of stamp duties and of duties relating to customs and excise).

Annotations

Amendments:

- F1** Inserted (18.12.2019) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 3, S.I. No. 671 of 2019.
- F2** Substituted (18.12.2023) by *Finance (No. 2) Act 2023 (39/2023)*, s. 96(2), commenced on enactment.
- F3** Inserted (15.12.2022) by *Finance Act 2022 (44/2022)*, s. 96(24), commenced as per subs. (25).
- F4** Inserted (2.08.2023) by *Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023 (23/2023)*, s. 26, S.I. No. 388 of 2023.

Editorial Notes:

- E2** Previous affecting provision: definition of "Taxation Acts" para. (c) amended (1.09.2023) by *Finance Act 2022 (44/2022)*, s. 99(3), commenced as per subs. (4); para. (c) substituted (18.12.2023) as per F-note above.

PART 2**TAX APPEALS COMMISSION****Establishment of Tax Appeals Commission**

- 3.** (1) There shall stand established, on the establishment day, a body to be known as An Coimisiún um Achomhairc Chánach or, in the English language, the Tax Appeals Commission, and which in this Act is referred to as the Commission.
- (2) The Minister shall by order appoint a day to be the establishment day (in this Act referred to as the "establishment day") for the purposes of this Act.
- (3) The Commission shall be a body corporate with perpetual succession and an official seal and shall have power to sue, and may be sued, in its corporate name.
- (4) The seal of the Commission shall be authenticated by the signatures of both a member of the Commission, and a member of the staff of the Commission authorised by the Commissioners to act in that behalf.
- (5) Judicial notice shall be taken of the seal of the Commission and any document purporting to be an instrument made by, and to be sealed with the seal of, the Commission shall, unless the contrary is shown, be received in evidence and be deemed to be such instrument without further proof.

F5[(6) The Commission may enter into agreements with other persons for the purposes of the performance of the functions of the Commission.]

Annotations**Amendments:**

- F5** Inserted (18.12.2019) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 4, S.I. No. 671 of 2019.

Editorial Notes:

- E3** Power pursuant to subs. (2) exercised (21.03.2016) by *Finance (Tax Appeals) Act 2015 (Establishment Day) Order 2016 (S.I. No. 111 of 2016)*, as per art. 2.

Membership of Commission

- 4.** (1) The Commission shall consist of such and so many members as the Minister determines and appoints under *section 8*; each member of the Commission shall be known as an "Appeal Commissioner" and, in this Act, is referred to as a "Commissioner".

- (2) A temporary Commissioner appointed under *section 9* shall not be regarded as a member of the Commission, but this is without prejudice to the provisions of that section.

F6[Appointment of chairperson of Commission

- 4A.** (1) The chairperson shall be appointed by the Minister from among persons in respect of whom a recommendation has been made under *subsection (2)*.
- (2) The Minister shall request the Public Appointments Service to assess and select suitable candidates for appointment as the chairperson in accordance with the relevant provisions of the Public Service Management (Recruitment and Appointments) Act 2004 and, following such assessment and selection, to recommend individuals to the Minister for appointment.
- (3) The Minister may, from time to time, specify requirements that he or she considers to be requirements that must be complied with by a candidate for appointment as chairperson; the Public Appointments Service, in performing its functions under *subsection (2)*, shall satisfy itself that those requirements are complied with by a candidate.
- (4) Without prejudice to the generality of *subsection (3)*, the requirements that may be specified by the Minister under that subsection include—
- (a) the minimum period of practical experience, or type of practical experience, required of a candidate,
 - (b) the academic or professional qualifications to be possessed by a candidate, and
 - (c) subject to the Employment Equality Act 1998, the health and age of a candidate.
- (5) A person shall be appointed as chairperson under *subsection (1)* for such term, not exceeding a period of 7 years, as the Minister determines and specifies in the appointment and, subject to this Act, shall hold office for that period accordingly.
- (6) Where—
- (a) a person has, in accordance with *subsection (1)*, already been appointed as chairperson, and
 - (b) that person's first term of office as chairperson expires by passage of time,
- then that person may be appointed as chairperson by the Minister for a second term.
- (7) The period of that second term shall be such as the Minister determines and specifies in the reappointment, but shall not exceed 7 years.
- (8) A person shall not be appointed as chairperson for more than 2 terms of office.
- (9) In addition to the limit provided by *subsection (5)* or *(7)* concerning the period of a chairperson's term of office, the specification, under either such subsection, of a period of office shall be such as will result in *section 15(1)* (Commissioner must retire at retirement age) being complied with.
- (10) Where a person appointed as chairperson is not a Commissioner on the date that he or she is appointed as chairperson—

(a) that person shall be deemed to be appointed as a Commissioner—

(i) on the date of his or her appointment as chairperson, and

(ii) for the term of his or her appointment as chairperson,

and

(b) *section 8(7)* shall apply to that person as if he or she had been appointed in accordance with *section 8(2)* on the date of his or her appointment as chairperson.

(11) If the circumstances specified in *paragraphs (a) and (b) of subsection (6)* apply in relation to a person but the person is not reappointed as chairperson under that subsection, the Minister shall lay a statement before Dáil Éireann giving the reason for not so reappointing the person.]

Annotations

Amendments:

F6 Inserted (18.12.2019) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 671 of 2019.

F7[Resignation of chairperson

4B. (1) A chairperson may resign by written notice to the Minister stating his or her intention to do so.

(2) Such a resignation shall take effect from a date that is not less than 3 months after the date of the notice referred to in *subsection (1)*, unless the Minister approves its taking effect on an earlier date.]

Annotations

Amendments:

F7 Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

F8[Removal from office of chairperson

4C. (1) The Minister may at any time, for stated reasons, remove a chairperson from office for misbehaviour.

(2) Without prejudice to subsection (1), the Minister may at any time remove a chairperson from office where the Minister considers that—

(a) the chairperson has become incapable through ill health of effectively performing his or her functions as chairperson,

(b) the chairperson's removal is necessary or expedient for the effective performance by the Commission of its functions, or

(c) a conflict of interest (with regard to the performance by the chairperson of his or her functions) arises on the part of the chairperson of such significance that the chairperson should cease to hold office.

(3) Where the Minister removes a chairperson from office under this section, he or she shall lay a statement before Dáil Éireann giving the reason for the removal.]

Annotations**Amendments:**

- F8** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

F9[Cessation of term of office of chairperson]

4D. The term of office of a chairperson shall cease on the date that is the earliest to occur of the following:

- (a) the date of the expiry of his or her term of office as chairperson;
- (b) the date of his or her resignation or removal from office as a Commissioner;
- (c) the date of his or her resignation or removal from office as chairperson;
- (d) the date of he or she ceasing to hold office as a Commissioner in accordance with *section 18.*]

Annotations**Amendments:**

- F9** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

F10[Temporary incapacity of chairperson]

4E. Where the chairperson is for any reason temporarily unable to act as chairperson, the Minister may appoint another Commissioner to be the chairperson for the duration of that inability and the Commissioner so appointed may, for that duration, perform all of the functions assigned to the chairperson.]

Annotations**Amendments:**

- F10** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

F11[Functions of chairperson]

4F. (1) The chairperson shall carry on and manage, and control generally, the administration and business of the Commission and such other functions as are assigned to him or her by or under this Act.

(2) Without prejudice to the generality of *subsection (1)*, the chairperson shall perform the following functions in relation to the Commission:

- (a) ensure the integrity of the Commission's accounting and financial reporting systems;
- (b) ensure that appropriate systems of control are in place, in particular systems for—

- (i) risk management,
 - (ii) financial and operational control, and
 - (iii) legal compliance;
- (c) ensure that the obligations of the Commission under the Freedom of Information Act 2014 are complied with;
- (d) ensure that the obligations of the Commission under data protection law are complied with;
- (e) ensure that the functions of the Commission are performed efficiently;
- (f) determine the priority as between appeals, having regard to the interests of justice and the efficient operation of this Act and Part 40A of the Act of 1997.
- (3) The chairperson shall establish and maintain efficient and effective systems and procedures so as to secure the processing, adjudication and determination of appeals in a timely and effective manner.
- (4) The chairperson may issue guidelines on the operation of the provisions of this Act or Part 40A of the Act of 1997 or any particular provision of this Act or Part 40A of the Act of 1997.
- (5) The chairperson may consult with the other Commissioners in relation to the administration and business of the Commission.
- (6) The chairperson shall convene a meeting with the other Commissioners at least once in each year to conduct a review of the performance by the Commissioners of their functions under this Act and Part 40A of the Act of 1997 in the period between the date of the meeting and the date on which the previous meeting was convened under this subsection or, in the case of the first meeting to be convened under this subsection, the period between the date of the meeting and the date on which section 5 of the Finance (Tax Appeals and Prospectus Regulation) Act 2019 came into operation.
- (7) The chairperson shall be the accounting officer in relation to the appropriation accounts of the Commission for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.
- (8) The chairperson shall be accountable to the Minister for the efficient and effective management of the Commission and for the due performance of his or her functions.
- (9) Any function assigned by this Act to the chairperson, other than a function specified in any of *subsections (4) to (8)* or *section 4G*, may be performed by any one or more of the Commission's staff acting under the chairperson's authority.
- (10) In this section, "data protection law" means—
- (a) the Data Protection Acts 1988 to 2018,
 - (b) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and all law of the State giving further effect to that Regulation, and
 - (c) all law of the State giving effect or further effect to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016² on the protection of natural persons with regard to the processing

of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.]

Annotations**Amendments:**

- F11** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

F12[Reporting to chairperson

4G. (1) The chairperson may request a Commissioner to provide a report to the chairperson in relation to the functions, or any particular function, performed by that Commissioner under this Act or Part 40A of the Act of 1997.

(2) Without prejudice to the generality of *subsection (1)*, a request may be made under that subsection to provide a report in relation to the determination of an appeal by the Commissioner concerned.

(3) A request under *subsection (1)* shall specify the information to be included in the report and the time within which the report is to be provided to the chairperson.

(4) The chairperson shall specify a reasonable time for the provision of a report requested under *subsection (1)*, taking into account the nature and extent of the information requested to be included in the report.

(5) A Commissioner shall comply with a request made under *subsection (1)*.]

Annotations**Amendments:**

- F12** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 5, S.I. No. 238 of 2020.

Performance of Commission's functions through Commissioners and staff

5. (1) Without prejudice to the general law in respect of bodies corporate performing, through natural persons, functions and to *subsection (2)* —

(a) the Commission's functions in relation to adjudicating on, hearing, determining and disposing of appeals under this Act (or the Act of 1997), and the doing of all other things in that behalf, are performable through the Commissioners, and

(b) the provision made in respect of those matters by this Act (or the Act of 1997) is, accordingly, expressed by reference to the Commissioners and not the Commission.

(2) Any function assigned by this Act or the Taxation Acts to the Commission or the Commissioners, other than a function specified in *section 6(2)(b)*, *(f)*, *(g)*, or *(j)*, may be performed by any one or more of the Commission's staff acting under the Commission's authority.

- (3) Notwithstanding anything in *subsection (1)* or *(2)*, any proceedings by a person in respect of any decision, determination or other act to which either of those subsections applies (other than proceedings involving a right or liability personal to any officeholder or other individual mentioned in those subsections) shall be in the Commission's corporate name, and not otherwise.

Functions of Commissioners

6. (1) The Commissioners may perform such functions as are assigned to them by this Act and by the Taxation Acts.
- (2) Without prejudice to the generality of *subsection (1)*, the Commissioners shall perform the following functions in relation to the Taxation Acts—
- (a) deciding whether or not to accept an appeal,
 - (b) deciding whether to declare, under section 949N(3) (inserted by *section 34*) of the Act of 1997, that a refusal to accept an appeal is final,
 - (c) deciding on the appropriate procedure to be adopted in relation to an adjudication of an appeal,
 - (d) giving directions to the parties to an appeal,
 - (e) fixing dates, times and places for the hearing of appeals,
 - (f) hearing an appeal where the Commissioners have decided that a hearing is the appropriate method of adjudicating on the appeal,
 - (g) determining appeals,
 - (h) providing written determinations,
 - (i) publishing determinations,
 - (j) stating and signing cases stated for the opinion of F13[the High Court, and]
 - (k) F14[...]
 - (l) doing all such other things as they consider conducive to the resolution of disputes between appellants and the Revenue Commissioners and the establishment of the correct liability to tax of appellants.
- (3) References in *subsection (2)* to accepting an appeal shall be read in accordance with Chapter 2 of Part 40A (inserted by *section 34*) of the Act of 1997.
- (4) The Commissioners shall perform their functions in a manner that has regard to the need for proceedings before the Commissioners—
- (a) to be accessible and fair, and
 - (b) to be conducted as expeditiously as possible.
- (5) The Commissioners may adopt rules of procedure with respect to any of their functions and shall publish any rules so adopted.

Annotations**Amendments:**

- F13** Substituted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 6(a), S.I. No. 238 of 2020.
- F14** Deleted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 6(b), S.I. No. 238 of 2020.

Functions of Commissioners performable by one of their number

7. (1) Any provision of this Act, or the Taxation Acts, that confers a function on the Commissioners shall be read as conferring the function on, and accordingly as enabling, subject to the rules of procedure, if any, adopted under *section 6(5)*, the function to be performed by, any one of the Commissioners.
- (2) Without prejudice to the generality of *subsection (1)*, the granting of authority of the kind referred to in *section 5(2)* to a member or members of staff may, subject to the rules of procedure, if any, adopted under *section 6(5)*, be done by any one of the Commissioners.

Appointment of Commissioners

8. (1) In this section “Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004.
- (2) F15[*Subject to subsections (6) and (7) and section 4A(10)*], a Commissioner shall be appointed by the Minister from among persons in respect of whom a recommendation has been made under *subsection (3)*.
- (3) The Minister shall request the Public Appointments Service to assess and select suitable candidates for appointment as a Commissioner in accordance with the relevant provisions of the Act of 2004 and, following such assessment and selection, to recommend individuals to the Minister for appointment.
- (4) The Minister may, from time to time, specify requirements that he or she considers to be requirements that must be complied with by a candidate for appointment as a Commissioner; the Public Appointments Service, in performing its functions under *subsection (3)*, shall satisfy itself that those requirements are complied with by a candidate.
- (5) Without prejudice to the generality of *subsection (4)*, the requirements that may be specified by the Minister under that subsection include—
- (a) the minimum period of practical experience, or type of practical experience, required of a candidate,
- (b) the academic or professional qualifications to be possessed by a candidate, and
- (c) subject to the Employment Equality Act 1998, the health and age of a candidate.
- (6) Notwithstanding *subsection (2)*, the Minister may appoint as a Commissioner a person who, immediately before the establishment day, is serving as an Appeal Commissioner appointed in accordance with section 850 of the Act of 1997.
- (7) Notwithstanding *subsection (2)*, in the following circumstances, that is—

- (a) a person has, in accordance with *subsection (2)*, already been appointed as a Commissioner, and
- (b) that person's first term of office as Commissioner expires by passage of time,
- then that person may be reappointed as a Commissioner by the Minister for a second term as provided for under *section 13(3)*.
- (8) A person shall not be appointed as a Commissioner for more than 2 consecutive terms of office.
- (9) If the circumstances specified in *paragraphs (a) and (b) of subsection (7)* apply in relation to a person but the person is not reappointed as a Commissioner under *section 13(3)*, the Minister shall lay a statement before Dáil Éireann giving the reason for not so reappointing the person.

Annotations**Amendments:**

- F15** Substituted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 7, S.I. No. 238 of 2020.

Temporary Commissioners

9. (1) Subject to *subsection (3)*, the Minister may from time to time appoint a judge of the Circuit Court (in this Act referred to as a "temporary Commissioner") to perform a function of a Commissioner where the Commissioners are precluded from performing the function in accordance with *section 11* (recusal).
- (2) The Minister may from time to time appoint a person on a temporary basis (in this Act also referred to as a "temporary Commissioner") to perform a function of a Commissioner where, in the opinion of the Minister, circumstances (apart from those mentioned in *subsection (1)*) require such an appointment to be made.
- (3) The appointment of a judge of the Circuit Court as a temporary Commissioner shall not be made without the approval of the President of the Circuit Court.
- (4) A person shall be appointed as a temporary Commissioner upon such terms and conditions as the Minister determines to be appropriate and specifies in the appointment.
- (5) Without prejudice to the generality of *subsection (4)*, an appointment under this section shall specify—
- (a) the period for which the appointment is to remain in force, and
- (b) the function or functions to be performed by the person appointed as a temporary Commissioner.
- (6) The following provisions of this Act shall not apply to a temporary Commissioner, namely —
- (a) *section 8*,
- (b) *section 12*, but this exclusion applies only to a temporary Commissioner appointed under *subsection (1)*,
- (c) *sections 13 and 14*, and

(d) *section 15(2) to (6)*.

(7) Notwithstanding that a temporary Commissioner is not, by virtue of *section 4(2)*, to be regarded as a member of the Commission, where a function of a Commissioner falls to be performed by a temporary Commissioner, references in such of the provisions of—

(a) this Act, other than those disapplied by *subsection (6)*, or

(b) the Taxation Acts,

as are relevant to the performance of that function, to—

(i) a Commissioner, or

(ii) a member of the Commission,

shall be read as including references to a temporary Commissioner.

Independence

10. Subject to this Act, the Commission and its members shall be independent in the performance of their functions.

Recusal

11. Where a Commissioner is interested in the Commissioner's own right or in the right of any other person in any matter under appeal to the extent that the Commissioner considers that he or she will be unable to act impartially in the adjudication and determination of the matter, the Commissioner shall not take any part in that adjudication and determination.

Declaration on appointment

12. (1) Every person who is appointed as a Commissioner shall, before the first occasion of performance by the person of his or her functions as Commissioner, make and subscribe the declaration set out in *Schedule 1*.

(2) For the avoidance of doubt, *subsection (1)* shall not apply in a case where a Commissioner is reappointed in accordance with *section 13(3)*.

(3) The declaration referred to in *subsection (1)* shall be made before a Peace Commissioner.

Term of office

13. (1) The appointment of a person as a Commissioner shall be on a full-time basis.

(2) A person shall be appointed as a Commissioner for such term, not exceeding a period of 7 years, as the Minister determines and specifies in the appointment and, subject to this Act, shall hold office for that period accordingly.

(3) If the circumstances specified in *section 8(7)(a)* and *(b)* apply to a person, then that person may be reappointed as a Commissioner by the Minister for a second term.

(4) The period of that second term shall be such as the Minister determines and specifies in the reappointment but shall not exceed 7 years.

(5) In addition to the limit provided by *subsection (2) or (4)* concerning the period of a Commissioner's term of office, the specification, under either such subsection, of a period of office shall be such as will result in *section 15(1)* (Commissioner must retire at retirement age) being complied with.

F16[(6) The sum of the periods of a person's terms of appointment as Commissioner (including where that person is deemed to be appointed as a Commissioner under *section 4A(10)(a)*) shall not exceed 14 years.]

Annotations

Amendments:

F16 Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 8, S.I. No. 238 of 2020.

Terms and conditions of Commissioner's appointment

14. (1) Subject to *subsections (2) and (4)*, the appointment of a person as a Commissioner shall be subject to such terms and conditions as the Minister, after consultation with the Minister for Public Expenditure and Reform, determines.

(2) There shall be paid to F17[*each Commissioner, other than the chairperson,*] such remuneration as the Minister for Public Expenditure and Reform may from time to time determine.

(3) A Commissioner shall not hold F17[*any other office (other than, in the case of the chairperson, the office of chairperson)*] or employment in respect of which emoluments are payable or carry on any trade, business or profession.

(4) In relation to a person to whom *subsection (5)* applies, the terms and conditions of his or her appointment as a Commissioner shall, notwithstanding *subsections (1) and (2)*, not be different from those to which the office of Appeal Commissioner referred to in *subsection (5)* was, immediately before the establishment day, subject.

(5) This subsection applies to a person appointed as a Commissioner who, immediately before the establishment day, is serving as an Appeal Commissioner appointed in accordance with section 850 of the Act of 1997.

Annotations

Amendments:

F17 Substituted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 9(a), (b), S.I. No. 238 of 2020.

F18[**Terms and conditions of chairperson's appointment**

14A. (1) Subject to *subsection (2)*, the appointment of a person as chairperson shall be subject to such terms and conditions as the Minister, after consultation with the Minister for Public Expenditure and Reform, determines.

(2) There shall be paid to the chairperson such remuneration as the Minister for Public Expenditure and Reform may from time to time determine.]

Annotations**Amendments:**

- F18** Inserted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 10, S.I. No. 238 of 2020.

Superannuation

15. (1) A Commissioner shall retire on attaining retirement age.
- (2) Subject to *subsection (3)*, the Minister shall, with the consent of the Minister for Public Expenditure and Reform, make and carry out, in accordance with its terms, a scheme or schemes for the granting of pensions, gratuities or other allowances on retirement or death to or in respect of persons who have held the office of Commissioner.
- (3) A scheme made under this section shall not provide for the granting of pensions, gratuities or other allowances to or in respect of a person referred to in *subsection (2)* where the Single Public Service Pension Scheme applies to that person by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.
- (4) The Minister may, with the consent of the Minister for Public Expenditure and Reform, at any time make and carry out, in accordance with its terms, a scheme or schemes amending or revoking a scheme under this section.
- (5) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House sits after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (6) In this section “retirement age” means the age specified in section 13(2) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 or such later age as the Minister for Public Expenditure and Reform may, by order, determine under that Act.

Resignation

16. (1) A Commissioner may resign by written notice to the Minister stating his or her intention to do so.
- (2) Such a resignation shall take effect from a date that is not less than 3 months after the date of the notice referred to in *subsection (1)* unless the Minister approves its taking effect on an earlier date.

Removal from office

17. (1) The Minister may for stated reasons at any time remove a Commissioner from office for misbehaviour.
- (2) Without prejudice to *subsection (1)*, the Minister may at any time remove a Commissioner from office where the Minister considers that—
- (a) the Commissioner has become incapable through ill health of effectively performing his or her functions as a Commissioner,
- (b) the Commissioner’s removal is necessary or expedient for the effective performance by the Commission of its functions, or

- (c) a conflict of interest (with regard to the performance by the Commission of its functions) arises on the part of the Commissioner of such significance that the Commissioner should cease to hold office.
- (3) Where the Minister removes a Commissioner from office he or she shall lay a statement before Dáil Éireann giving the reason for the removal.

Disqualification of Commissioner

18. (1) A Commissioner shall cease to hold office on—

- (a) being adjudicated bankrupt,
- (b) making a composition or arrangement with creditors,
- (c) being convicted, on indictment, of an offence, or
- (d) ceasing to be ordinarily resident in the State.

(2) Where a Commissioner—

- (a) is nominated as a member of Seanad Éireann,
 - (b) is nominated to stand as a candidate for election as a member of either House of the Oireachtas or to the European Parliament,
 - (c) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy, or
 - (d) is or becomes a member of a local authority,
- he or she shall thereupon cease to hold office.

(3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a Commissioner.

Funding of Commission

19. There shall be paid to the Commission out of moneys provided by the Oireachtas such allowances for expenses as the Minister for Public Expenditure and Reform may from time to time determine.

Staff of Commission

20. (1) There shall be employed in the office of the Commission so many officers and servants as the Minister shall from time to time determine after consultation with the Minister for Public Expenditure and Reform.

(2) Members of the staff of the Commission shall be civil servants within the meaning of the Civil Service Regulation Act 1956.

Reports to Minister

21. (1) The F19[chairperson] shall, on or before 31 March in each year after the year in which this section comes into operation—

- (a) prepare a report in relation to the performance of F19[the functions of the Commissioners] in the preceding year, and

- (b) submit the report to the Minister.
- (2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas, and, as soon as practicable after that is done, the F19[chairperson] shall publish the report on the internet.
- (3) The reference in *subsection (1)(a)* to the preceding year shall, in the case of the first report to be prepared under this section, be read as a reference to the period commencing on the establishment day and ending on 31 December 2015.
- (4) Where the inclusion of the following information is required—
- (a) by the Minister, which requirement the Minister (by virtue of this paragraph) has power to make, or
- (b) by virtue of any enactment apart from this subsection,
- the report referred to in *subsection (1)* shall include such information of a statistical nature in relation to—
- (i) the notification of appeals,
- (ii) refusals to accept (within the meaning of Chapter 2 of Part 40A, inserted by *section 34*, of the Act of 1997) appeals, and
- (iii) the adjudication on, and the hearing and determination of, appeals,
- as is specified in the requirement of the Minister or the enactment concerned.
- (5) The F19[chairperson] may, from time to time, prepare and submit to the Minister such other reports in relation to F19[the activities of the Commissioners] as they consider appropriate.
- (6) The Minister may F19[require the chairperson], by direction in writing, to prepare and submit to him or her a report in relation to any particular matter relating to the activities of the Commissioners as the Minister considers appropriate.
- (7) The F19[chairperson] shall comply with a direction under *subsection (6)*.
- (8) This section shall not operate to F19[require the chairperson] to include information in the report referred to in *subsection (1)* or (6) that, F19[in his or her opinion], would prejudice the performance by the Commissioners of their functions.

Annotations**Amendments:**

- F19** Substituted (1.07.2020) by *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*, s. 11(a), (b), (c), (d), (e), (f), S.I. No. 238 of 2020.

PART 3

TRANSITIONAL PROVISIONS

Part 3 (Interpretation)

- 22.** (1) For the purposes of this Part an appeal shall be regarded as having been made when an appellant has sent a notice of appeal to the Revenue Commissioners or the Appeal Commissioners, as the case may be, in accordance with the relevant provision of the Taxation Acts.
- (2) For the avoidance of doubt, for the purposes of this Part an appeal shall be regarded as having been made when an appellant has sent a notice of appeal in the circumstances specified in section 933(7) of the Act of 1997.
- (3) In this Part—
- “commencement date” means the date on which *section 34* (which inserts Part 40A in the Act of 1997) comes into operation;
- “existing appeal” shall be read in accordance with *section 24* ;
- “Part 40” means Part 40 of the Act of 1997;
- “Part 40A” means Part 40A of the Act of 1997.

Part 40 not to apply in case of appeal made on or after the commencement date

- 23.** Part 40 shall not apply to an appeal made on or after the commencement date.

Existing appeals: extent of application of Parts 40 and 40A to them

- 24.** The extent of the application of the provisions of Part 40 and Part 40A, respectively, to an appeal made before the commencement date (in this Part referred to as an “existing appeal”) is provided for in *sections 25 to 31*.

Application of section 933(1) of Act of 1997 to existing appeal

- 25.** (1) In this section references to section 933 are references to section 933 of the Act of 1997.
- (2) Where, before the commencement date, an application by a person under subsection (1)(a) of section 933 has been refused under subsection (1)(b) of that section and the following is the case—
- (a) the person has not appealed against the refusal in accordance with section 933(1)(c), and
- (b) the period specified in that provision for the person’s doing so has not expired on or before the commencement date,
- then section 933(1)(c) shall continue to apply, after the commencement date, to the appeal but only for so much of the foregoing period as remains unexpired and, if the person appeals against the refusal in accordance with that provision, section 933(1)(d) shall apply to the appeal.
- (3) Where, before the commencement date, an application by a person under subsection (1)(a) of section 933 has been refused under subsection (1)(b) of that section and the person has appealed against the refusal in accordance with section 933(1)(c), then, to the extent that the appropriate steps under section 933(1)(d) have not been taken in relation to the appeal

before the commencement date, those steps shall be taken after that date and section 933(1)(d) shall, accordingly, apply to the appeal.

(4) Where either—

- (a) an application by a person under subsection (1)(a) of section 933 has not been refused under subsection (1)(b) of that section, or
- (b) such an application is allowed by the Appeal Commissioners either pursuant to subsection (1)(d)(ii) of section 933 or following a hearing referred to in subsection (1)(d)(iii) of that section,

then, for the purposes of the application of *section 27(2)* to the appeal concerned, the appeal shall be regarded as accepted by the Appeal Commissioners (within the meaning of section 949J, inserted by *section 34*, of the Act of 1997), but without prejudice to paragraphs (b) and (c) of section 949N(1), inserted by *section 34*, of that Act.

Application of section 933(7) of Act of 1997 to existing appeal

26. (1) In this section references to section 933 are references to section 933 of the Act of 1997.

(2) Where, before the commencement date, an application by a person under subsection (7)(a) or (d) of section 933 has been refused under subsection (7)(b) or (e), as the case may be, of that section and the following is the case—

- (a) the person has not appealed against the refusal in accordance with section 933(7)(c) or (f), as appropriate, and
- (b) the period specified in the appropriate provision for the person's doing so has not expired on or before the commencement date,

then section 933(7)(c) or (f), as appropriate, shall continue to apply, after the commencement date, to the appeal but only for so much of the foregoing period as remains unexpired and, if the person appeals against the refusal in accordance with the appropriate provision, the matter of whether the Appeal Commissioners shall allow the application or not shall be treated as a decision by them as to whether to allow a late appeal under section 949O (inserted by *section 34*) of the Act of 1997 and that section shall apply accordingly to the appeal.

(3) Where, before the commencement date, an application by a person under subsection (7)(a) or (d) of section 933 has been refused under subsection (7)(b) or (e), as the case may be, of that section and the person has appealed against the refusal in accordance with section 933(7)(c) or (f), as appropriate, then, unless before the commencement date, the matter has been determined by the Appeal Commissioners under section 933(7)(c) or (f), as appropriate, the matter of whether the Appeal Commissioners shall allow the application or not shall be treated as a decision by them as to whether to allow a late appeal under section 949O (inserted by *section 34*) of the Act of 1997 and that section shall apply accordingly to the appeal.

(4) Where, before the commencement date, either—

- (a) an application by a person under subsection (7)(a) or (d) of section 933 has not been refused under subsection (7)(b) or (e), as the case may be, of that section, or
- (b) such an application is allowed by the Appeal Commissioners under section 933(7)(c) or (f), as appropriate,

then, for the purposes of the application of *section 27(2)* to the appeal concerned, the appeal shall be regarded as accepted by the Appeal Commissioners (within the meaning of section 949J, inserted by *section 34*, of the Act of 1997), but without prejudice to paragraphs (b) and (c) of section 949N(1), inserted by *section 34*, of that Act.

Existing appeals: transition from procedures under Part 40 to those under Part 40A

- 27.** (1) In this section “steps” includes steps to be taken by the appellant or other persons (including the Appeal Commissioners and a court) and, in the case of the Appeal Commissioners or a court, includes the hearing of an appeal, but neither this subsection nor *subsection (2)* prejudices the operation of *section 25(2)* and (3).
- (2) Without prejudice to *subsections (3) to (5)*, if, before the commencement date, one or more steps under Part 40 in relation to an existing appeal remain to be taken, then on and from the commencement date—
- (a) no such steps shall be taken under Part 40, and
- (b) the steps under Part 40A analogous to those steps shall be taken, and the provisions of Part 40A relevant to the taking of those steps shall apply accordingly.
- (3) Notwithstanding *subsection (2)*, Chapters 1 and 3 of Part 40A shall apply to an existing appeal.
- (4) Notwithstanding *subsection (2)*, where, in relation to an existing appeal—
- (a) a hearing has commenced but is not completed before the commencement date,
- (b) a hearing has been completed but the Appeal Commissioners have not made a determination before that date, or
- (c) the Appeal Commissioners have made a determination but the period specified in subsection (1) of section 942 of the Act of 1997 for the appellant to give the notice referred to in that subsection has not expired before that date,
- sections 942 and 943 of the Act of 1997 shall continue to apply to the appeal.
- (5) For the avoidance of doubt, where a hearing has not commenced in respect of an existing appeal before the commencement date, section 942 of the Act of 1997 shall not apply to the appeal.

Appeal Commissioners vacating office before hearing or determination of appeal completed

- 28.** Where, in relation to an existing appeal—
- (a) a hearing has commenced but is not completed before the commencement date, or
- (b) a hearing has been completed but a determination has not been made before that date,
- by the one or more Appeal Commissioners who presided over the hearing (and the omission to complete or do the foregoing thing is due to those Appeal Commissioners having vacated, in whatever circumstances,

office), the appeal shall, as one or more other Appeal Commissioners decide, either—

- (i) be reheard by the latter Appeal Commissioners as if the first hearing had not taken place, or
- (ii) instead of being reheard, be adjudicated on and determined, subject to subsection (3) of that section, in accordance with section 949U of the Act of 1997,

and, following the taking of such steps, the provisions otherwise of Part 40A shall apply accordingly.

Cases stated - particular instances of steps remaining to be taken

29. (1) With respect to the provisions made by this section and *section 30* —

- (a) those provisions supplement *section 27(2)*, and
- (b) so far as those provisions provide for the taking of steps after the commencement date, those provisions shall be read as providing for those steps to be taken under Part 40A (or under that Part in conjunction with the additional provision made by those provisions),

and, following the taking of such steps, the provisions otherwise of Part 40A shall apply accordingly.

(2) If—

- (a) any of the steps in the stating and signing of a case for the opinion of the High Court on the determination of the Appeal Commissioners remain to be taken before the commencement date, and
- (b) the one or more Appeal Commissioners who heard the appeal have vacated, in whatever circumstances, office,

the vacation of office by those Appeal Commissioners shall not prevent the application of *section 27(2)* to the taking of such steps, which steps may be taken after the commencement date by one or more other Appeal Commissioners.

(3) *Subsection (4)* applies if the circumstances referred to in *subsection (2)(a)* apply in the particular case, irrespective of whether the circumstances referred to in *subsection (2)(b)* also apply in the particular case (and if the circumstances referred to in both of those paragraphs so apply *subsection (4)* applies notwithstanding that *subsection (2)* provides for certain steps to be taken by Appeal Commissioners other than the one or more Appeal Commissioners who heard the appeal referred to in that subsection).

(4) Where this subsection applies, the Appeal Commissioners shall serve a notice on each of the parties to the appeal, the subject of the proposed case stated, requesting the party to state to the Appeal Commissioners, within a period specified in the notice, whether the party wishes—

- (a) the Appeal Commissioners to rehear the appeal, or
- (b) the completion and signing of the case stated to be proceeded with.

(5) Where both of the parties state to the Appeal Commissioners, within the period specified in the notice concerned under *subsection (4)* —

- (a) that they wish the appeal to be reheard by the Appeal Commissioners, the appeal shall be reheard by the Commissioners, or

- (b) that they wish the completion and signing of the case stated to be proceeded with—
- (i) subject to *subparagraph (ii)*, the Commissioners shall complete the case stated and sign it, or
 - (ii) if *section 30* applies, the Commissioners shall comply with that section and complete the case stated and sign it in accordance with that section.
- (6) Subject to *subsection (7)*, if the service of a notice under *subsection (4)* does not result in a statement that falls within *subsection (5)(a) or (b)*, the Appeal Commissioners shall complete the case stated and sign it.
- (7) If—
- (a) the service of a notice under *subsection (4)* does not result in a statement that falls within *subsection (5)(a) or (b)*, and
 - (b) *section 30* applies,
- the Appeal Commissioners shall comply with that section and complete the case stated and sign it in accordance with that section.
- (8) *Subsection (9)* applies to a case stated sent to the High Court in circumstances in which, by virtue of this section (or this section and *section 30*), a case stated may be completed and signed by Appeal Commissioners other than the one or more Appeal Commissioners who heard the appeal, the subject of the case stated, and the reference in *subsection (9)* to the relevant circumstances is a reference to both—
- (a) the fact of the second-mentioned Commissioners in this subsection having vacated, in whatever circumstances, office, and
 - (b) the fact of the case stated having been completed and signed by the first-mentioned Commissioners in this subsection.
- (9) If, on or after the sending to it of a case stated to which this subsection applies, the High Court is of the opinion that having regard to—
- (a) the particular issues arising in the case stated, or
 - (b) the likelihood of there being exercised by it the powers under section 949AR(1)(b) or (2) of the Act of 1997 in relation to the case stated,
- the proceeding by it to deal, or further deal, with the case stated would not, by reason of the relevant circumstances, be consistent with the due administration of justice, it shall decline to deal, or further deal, with the case stated and may make an order directing that the appeal, the subject of the case stated, be reheard by the Appeal Commissioners or such other order as it deems just.

Supplemental provisions in relation to *section 29*

- 30.** (1) In this section “appeal” means the appeal the subject of the determination referred to in *section 29(2)(a)*.
- (2) If, before the commencement date—
- (a) the one or more Appeal Commissioners who heard the appeal had recourse to the practice of permitting the parties to the appeal to agree the terms of a draft of the case stated (with a view to the parties submitting such terms, as so agreed, to the Appeal Commissioners), and

(b) such terms have not been agreed between the parties and submitted to the Appeal Commissioners,

then, subject to *subsection (3)*, as soon as practicable after the commencement date the Appeal Commissioners shall serve a notice on each of the parties requesting them, within a period specified in the notice, to endeavour to agree the terms of a draft of the case stated and submit such terms, as so agreed, to the Appeal Commissioners and that notice shall contain a statement that, if the parties do not agree the terms of such a draft, and submit them to the Appeal Commissioners, within the foregoing period, the Appeal Commissioners shall take the action referred to in *subsection (4)*.

(3) A notice under *subsection (2)* —

(a) shall not be served before the service of a notice under *section 29(4)* in relation to the appeal, and

(b) shall not, in any event, be served if the service of a notice under *section 29(4)* in relation to the appeal has resulted in a statement that falls within *section 29(5)(a)*.

(4) If the terms of a draft of the case stated, as agreed between the parties, are not submitted to the Appeal Commissioners within the period specified in the notice concerned under *subsection (2)*, the Appeal Commissioners shall, as soon as practicable, complete the case stated and sign it.

(5) If—

(a) the terms of a draft of the case stated, as agreed between the parties, are submitted to the Appeal Commissioners within the period specified in the notice concerned under *subsection (2)*, or

(b) before the service of such a notice on them, the terms of a draft of the case stated, as agreed between the parties, have been submitted to the Appeal Commissioners,

the Appeal Commissioners shall, using the whole or part of those terms as they determine for the following purpose (or the whole or part of them with such modifications as they determine and make to them for the following purpose), complete the case stated and sign it.

Transmission of existing appeals to Appeal Commissioners

31. (1) Where, before the commencement date, following the completion of steps under section 933(1) or (7) of the Act of 1997 in relation to an existing appeal it fell to the Revenue Commissioners to transmit the appeal to the Appeal Commissioners but such transmission has not been done before that date, the Revenue Commissioners shall, subject to *subsections (2)* and *(6)*, transmit the appeal to the Appeal Commissioners as soon as practicable after that date.

(2) Before transmitting the appeal to the Appeal Commissioners, the Revenue Commissioners shall notify the appellant of the requirement imposed on the Revenue Commissioners under *subsection (1)* in that behalf, and such notification shall request the appellant to indicate to the Revenue Commissioners whether he or she wishes—

(a) to settle the appeal by agreement in accordance with section 949V of the Act of 1997 as if a notice of appeal had been given to the Appeal Commissioners, or

(b) to have the appeal transmitted to the Appeal Commissioners,

and the Revenue Commissioners may, in such a notification, specify the period within which the appellant must indicate to them the person's wishes as to the matters referred to in *paragraphs (a) and (b)*.

- (3) At any time after the commencement date (and at that time the Revenue Commissioners have not complied with *subsection (2)* in relation to the appeal concerned), the appellant concerned may apply to the Appeal Commissioners for a direction requiring the Revenue Commissioners to transmit the appeal to the Appeal Commissioners and the Appeal Commissioners having considered the application may give such a direction accordingly.
- (4) If, for whatever reason, the Revenue Commissioners are unable to effect the notification of an appellant required under *subsection (2)*, they shall, subject to *subsection (6)*, transmit the appeal to the Appeal Commissioners.
- (5) Where, following notification of the appellant under *subsection (2)*, the wishes of the appellant indicated to the Revenue Commissioners in accordance with that subsection are those referred to in *paragraph (a)* of that subsection, but the appeal is not settled by agreement as mentioned in that paragraph, the Revenue Commissioners shall transmit the appeal to the Appeal Commissioners.
- (6) Notwithstanding *subsections (1) and (4)*, the Revenue Commissioners shall not be required to transmit an appeal to the Appeal Commissioners if the Revenue Commissioners, having reviewed the matter being appealed, form the view that the action, decision or determination that gave rise to the appeal should not be upheld, and where such a view is formed by them—
- (a) that view shall be reduced to writing, and
- (b) all steps as are appropriate in consequence of the formation of that view shall be taken by them.

Transitional provision in relation to records

- 32.** Each record held by the Appeal Commissioners appointed in accordance with section 850 of the Act of 1997, being a record held by them immediately before the establishment day, shall, and on and from that day, be taken to be held by the Commission.

References to Appeal Commissioners in other enactments

- 33.** References to Appeal Commissioners (however expressed) in any Act passed before the establishment day, or in any instrument made before that day under an Act, shall be read as references to Appeal Commissioners appointed under this Act, unless the context otherwise requires.

PART 4

APPEALS TO APPEALS COMMISSIONERS - INSERTION OF PART 40A IN ACT OF 1997

Appeals to Tax Appeals Commission under Act of 1997

- 34.** The Act of 1997 is amended by inserting the following Part after Part 40—

“Part 40A

Appeals to Appeals Commissioners

Chapter 1

*Interpretation and General***Interpretation**

949A. In this Part—

‘Acts’ means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) Parts 18A to 18D,
- (d) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,
- (e) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,
- (f) the Value-Added Tax Consolidation Act 2010, and the enactments amending or extending that Act,
- (g) the statutes relating to the duties of excise and to the management of those duties,
- (h) the Customs Act 2015 and the enactments amending or extending that Act,
- (i) the Finance (Local Property Tax) Act 2012 and the enactments amending or extending that Act,

and any instrument made thereunder and any instrument that is made under any other enactment and which relates to tax;

‘appealable matter’ means any matter in respect of which an appeal is authorised by the Acts;

‘Appeal Commissioner’ has the same meaning as it has in the *Finance (Tax Appeals) Act 2015*;

‘assessment’ means an assessment to tax made under the Acts or an estimate of tax made under section 989(2) or 990(1);

‘determination’ means a decision made by the Appeal Commissioners, following the completion of their adjudication of a matter under appeal, in disposing of the appeal;

‘late appeal’ means an appeal that is made after the end of the period specified by the Acts for the making of the appeal;

‘party’ means either the appellant in the appeal or the Revenue Commissioners;

‘proceedings’ includes—

- (a) all of the proceedings involved in the conduct of an appeal from the making of the appeal, and
- (b) if the following step occurs, the sending of a completed and signed case stated to the party requesting the case stated;

‘Revenue officer’ means an officer of the Revenue Commissioners;

'statement of case' shall be construed in accordance with section 949Q(1);

'tax' means any income tax, corporation tax, capital gains tax, value added tax, excise duty, customs duty, stamp duty, gift tax, inheritance tax, local property tax or any other levy or charge that is placed under the care and management of the Revenue Commissioners.

Delegation of acts and functions of the Revenue Commissioners

949B. Any act or function that is authorised by this Part to be done or to be performed by the Revenue Commissioners may be done or performed by any one or more of their officers acting under their authority.

Electronic means

949C. (1) Where such is provided for in accordance with subsection (3) —

- (a) any act or function that is authorised by this Part to be done or to be performed by the Revenue Commissioners or by the Appeal Commissioners may be done or performed through electronic means, and
 - (b) any act that this Part requires a person to perform (or that the Revenue Commissioners or the Appeal Commissioners may, under this Part, require, a person to perform) may be performed through electronic means.
- (2) Any document, including a certificate, notice, notification, form or return, authorised or required to be sent or given under this Part may be sent by post or, where such is provided for in accordance with subsection (3), by electronic means.
- (3) The Revenue Commissioners and the Appeal Commissioners may each, in their discretion, put arrangements in place for, or approve, the use of electronic means for any purpose of this section.
- (4) Those arrangements or that approval may stipulate, as a condition for electronic means being used for a foregoing purpose, that the person concerned comply with any requirements of the Revenue Commissioners or, as appropriate, the Appeal Commissioners of the kind referred to in sections 12(2)(b) and 13(2)(a) of the Electronic Commerce Act 2000.

Persons acting under authority

- 949D.** (1) An appellant who wishes another person (in this section referred to as the 'agent concerned') to act under the appellant's authority in relation to an appeal shall notify the Appeal Commissioners in writing accordingly and, for this purpose, shall provide the name and address of the agent concerned and any other information that the Appeal Commissioners may require.
- (2) The authority referred to in subsection (1) of the agent concerned may be revoked by the appellant; where that authority is revoked by the appellant or it otherwise ceases to have effect, the appellant shall, in writing, notify the Appeal Commissioners of that fact forthwith.
- (3) Unless and until the foregoing revocation or cesser of effect is notified in writing to the Appeal Commissioners, the Appeal

Commissioners may treat any act that is required, or permitted to be performed, by the appellant under this Part as so performed by the appellant, if the act has been performed by the agent concerned.

Directions

- 949E.** (1) The Appeal Commissioners may, on their own initiative or on the application of a party, give a direction at any time to a party in relation to the conduct or disposal of an appeal, including a direction amending an earlier direction or suspending or setting aside its operation.
- (2) Without prejudice to the generality of subsection (1), the matters in relation to which the Appeal Commissioners may give a direction include—
- (a) requiring a party to provide, to the Appeal Commissioners or to another party, documents, statements, accounts, returns, computations, explanations, particulars, records, certificates, declarations, schedules and such other items or information as they consider relevant to the adjudication of the matter under appeal,
 - (b) consolidating or hearing together 2 or more appeals raising common or related issues,
 - (c) staying proceedings,
 - (d) holding a preliminary hearing,
 - (e) adjourning a hearing, and
 - (f) extending the time within which a direction must be complied with.
- (3) In a case in which the giving by them of a direction is applied for by a party, such an application shall be made—
- (a) by sending, in writing, the application to the Appeal Commissioners, or
 - (b) orally, during the course of a hearing or preliminary hearing,
- and shall include the reason for seeking the direction.
- (4) A direction by the Appeal Commissioners may be given by them orally but, where this happens, the terms of the direction shall be reduced to writing as soon as practicable thereafter unless the Appeal Commissioners consider this to be unnecessary.
- (5) Where the Appeal Commissioners give a direction then, unless they consider that there is a good reason not to do so, they shall send a written notice of the direction to each party and to any other person affected by that direction.
- (6) A party who asserts that a direction ought not to have been given by the Appeal Commissioners or that a direction given by them should be amended shall apply to the Commissioners for a direction setting aside or suspending its operation or, as appropriate, amending it.
- (7) That application shall be made not later than 14 days after the date on which the party was notified of the first-mentioned direction in subsection (6).

- (8) Where the direction given is one requiring compliance with its terms, it shall specify a date by which these terms are to be complied with.
- (9) Where a direction requires the provision of such items or information as are referred to in subsection (2)(a), it may specify the format in which those items are to be provided.
- (10) A party to whom a direction is given shall comply with it.
- (11) Where a party applies in writing for a direction, the party shall, at the time of such application, send a copy of the application to the other party.

Joining of additional parties to appeal

949F. (1) Where an appeal is made in relation to—

- (a) a decision of a Revenue officer on an apportionment,
- (b) a determination of an amount referred to in section 100A, or
- (c) a decision of an inspector under section 121(7),

and the decision or determination affects the liability to tax of a person, other than a person in respect of whom the decision or determination was made, each person so affected may apply to the Appeal Commissioners for, and the Appeal Commissioners on the making of such an application may give, a direction making the person a party to the appeal.

(2) Save insofar as that provision is inconsistent with subsection (1), each provision of section 949E shall apply to a direction under this section.

Withdrawal and dismissal of appeals

949G. (1) An appellant may withdraw his or her appeal by giving notice in writing in that behalf to the Appeal Commissioners before they make a determination.

(2) Where an appeal is withdrawn in accordance with subsection (1), the Appeal Commissioners shall notify the other party in writing accordingly.

(3) Where—

- (a) the matters the subject of an appeal have been settled by agreement between the parties before the Appeal Commissioners make a determination,
- (b) an appeal is refused by the Appeal Commissioners under section 949N(1)(b) or (c), or
- (c) an appeal is treated as withdrawn under section 949AA(2),

then, in each case, the appeal shall, subject to subsection (4), be treated as if it has been dismissed by the Appeal Commissioners.

(4) To the extent that the basis for an agreement, as referred to in subsection (3), involves acceptance by the parties that the decision appealed from shall not stand in whole or in part, then nothing in that subsection shall be construed as affecting any agreement of the parties in that regard.

- (5) Where an appeal is dismissed under section 949AV, or treated as dismissed—
- (a) the Appeal Commissioners shall not be required to make a determination, and
 - (b) the matter that was appealed shall be treated as if no notice of appeal has been given.

Flexible proceedings

- 949H.** (1) The Appeal Commissioners shall, subject to the provisions of this Part, endeavour to the best of their ability to manage and conduct proceedings in a way that will meet the reasonable expectations of members of the public (and in particular tax payers) with regard to—
- (a) undue formality being avoided, and
 - (b) a flexible approach being adopted by the Commissioners in respect of procedural matters.
- (2) Without prejudice to the generality of subsection (1), the Appeal Commissioners shall—
- (a) provide an opportunity to the parties to settle the matter under appeal by agreement with each other, and
 - (b) avoid delay insofar as this is compatible with the proper consideration of a matter under appeal.

Chapter 2

Making and acceptance of appeals

Notice of appeal

- 949I.** (1) Any person who wishes to appeal an appealable matter shall do so by giving notice in writing in that behalf to the Appeal Commissioners.
- (2) A notice of appeal shall specify—
- (a) the name and address of the appellant and, if relevant, of the person acting under the appellant's authority in relation to the appeal,
 - (b) in the case of an appellant who is an individual, his or her personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) or, in the case of any other person, whichever of the numbers in respect of the person specified in paragraphs (b) and (c) of the definition of 'tax reference number' in section 885(1) is appropriate,
 - (c) the appealable matter in respect of which the appeal is being made,
 - (d) the grounds for the appeal in sufficient detail for the Appeal Commissioners to be able to understand those grounds, and
 - (e) any other matters that, for the time being, are stipulated by the Appeal Commissioners for the purposes of this subsection.
- (3) Where the provisions of the Acts relevant to the appeal concerned require conditions specified in those provisions to be satisfied

before an appeal may be made, a notice of appeal shall state whether those conditions have been satisfied.

- (4) Where an appeal is a late appeal, the notice of appeal shall state the reason the appellant was prevented from making the appeal within the period specified by the Acts for doing so.
- (5) A copy of the notification that was received from the Revenue Commissioners (that is to say, the notification in respect of the matters the subject of the appeal) shall be appended to a notice of appeal.
- (6) A party shall not be entitled to rely, during the proceedings, on any ground of appeal that is not specified in the notice of appeal unless the Appeal Commissioners are satisfied that the ground could not reasonably have been stated in the notice.

Valid appeal and references in this Part to acceptance of an appeal

949J.(1) For the purposes of this Part, an appeal shall be a valid appeal if—

- (a) it is made in relation to an appealable matter, and
- (b) any conditions that are required (by the provisions of the Acts relevant to the appeal concerned) to be satisfied, before an appeal may be made, are satisfied before it is made.

(2) References in this Part to an appeal being accepted by the Appeal Commissioners shall be construed as references to their determining that, for the time being (on the facts and information then available to them)—

- (a) the appeal is a valid appeal, and
- (b) there are no grounds for their invoking section 949N(1)(c) as a basis for not proceeding as subsequently mentioned in this subsection,

and, accordingly, that they should proceed to deal with the appeal.

(3) However, any such determination of the Appeal Commissioners may be reversed by them as and when facts and information become available to them that, in their opinion, warrant that course of action.

(4) Subsection (3) shall not affect the operation of section 949N(3) (provision with regard to finality of Appeal Commissioners' refusal to accept an appeal).

Notification of appeal to Revenue Commissioners

949K. The Appeal Commissioners shall send a copy of each notice of appeal, and any item that was appended to the notice, to the Revenue Commissioners as soon as practicable after they have received them.

Objection by Revenue Commissioners

949L. (1) Where the Revenue Commissioners consider that—

- (a) an appeal is not a valid appeal, or
- (b) the appellant has not complied with the requirements of section 949O,

they may send to the Appeal Commissioners a written notice of objection to the making of the appeal and that notice shall state the reason for their objection.

- (2) Where the Revenue Commissioners do not send the notice referred to in subsection (1) to the Appeal Commissioners within 30 days after the date on which the Appeal Commissioners send the notice of appeal to them, the Appeal Commissioners shall not be required to have regard to the objection in deciding whether to accept an appeal.
- (3) Where the Revenue Commissioners send a notice of objection in accordance with subsection (1), the Appeal Commissioners shall notify such objection to the appellant.

Acceptance of an appeal

949M. Subject to sections 949N and 949O, the Appeal Commissioners shall accept an appeal after the end of the period referred to in section 949L(2) where they have no reason to believe that the appeal is not a valid appeal.

Refusal to accept an appeal

949N. (1) Where the Appeal Commissioners—

- (a) are satisfied that an appeal is not a valid appeal,
 - (b) become aware, having previously formed the view that an appeal was a valid appeal, that it is not a valid appeal, or
 - (c) are satisfied that an appeal is without substance or foundation,
- they shall refuse to accept the appeal.

(2) Where the Appeal Commissioners refuse to accept an appeal, they shall notify the parties in writing accordingly stating the reason for the refusal.

(3) Where, in respect of a refusal on their part to accept an appeal, the Appeal Commissioners declare that their decision in that regard is final, then that decision shall be final and conclusive.

(4) For the avoidance of doubt—

- (a) references in the preceding subsections to the Appeal Commissioners' refusing to accept an appeal include references to a member or members of staff of the Commission, pursuant to an authority granted under *section 5(2) of the Finance (Tax Appeals) Act 2015*, refusing to accept an appeal, and
- (b) the Appeal Commissioners may make a declaration under subsection (3) in respect of a foregoing refusal by a member or members of staff to accept an appeal as they may make such a declaration in respect of such a refusal on their part.

Late appeals

949O. (1) The Appeal Commissioners may accept a late appeal where—

- (a) they are satisfied that—
 - (i) the appellant was prevented by absence, sickness or other reasonable cause from making the appeal within the period specified by the Acts for the making of that appeal, and

- (ii) the appeal is made thereafter without unreasonable delay,
and
 - (b) the appeal is made within a period of 12 months after the end of the period specified by the Acts for the making of that appeal.
- (2) Notwithstanding the period specified in paragraph (b) of subsection (1) for the making of an appeal, the Appeal Commissioners may accept an appeal made after the end of that period where paragraph (a) of that subsection applies and—
- (a) any return that was required to be delivered to the Revenue Commissioners under the Acts has been so delivered, and
 - (b) the requirement in subsection (3)(a) or (b) (or both as the case may be) has been complied with.
- (3) Each of the following is a requirement mentioned in subsection (2)(b) —
- (a) where, in the opinion of the Appeal Commissioners, the return referred to in subsection (2)(a) is insufficient to enable the appeal to be determined, such other information as, in the opinion of the Appeal Commissioners, would enable the appeal to be determined by them without undue delay has been provided, and
 - (b) where an appeal is made against an assessment, any tax charged by the assessment has been paid together with any interest on that tax chargeable under—
 - (i) section 1080,
 - (ii) section 159D of the Stamp Duties Consolidation Act 1999,
 - (iii) F section 103 of the Finance Act 2001,
 - (iv) section 51 of the Capital Acquisitions Tax Consolidation Act 2003,
 - (v) section 114 of the Value-Added Tax Consolidation Act 2010,
or
 - (vi) section 149 of the Finance (Local Property Tax) Act 2012,
as the case may be, at the time the appeal is made.
- (4) For the purpose of deciding whether to accept a late appeal, the Appeal Commissioners may make such enquiries as they consider necessary or appropriate and may do so by holding a hearing.
- (5) Nothing in this section derogates from the functions of the Appeal Commissioners under section 949N.

Effect of enforcement action for collection of tax

- 949P.** (1) Where action for the recovery of any tax has been taken by means of the institution of proceedings in any court or the issue of a certificate under section 960K, as the case may be, the Appeal Commissioners shall not accept a late appeal in relation to the tax until such action has been completed.
- (2) Where a late appeal is accepted following the completion of the action referred to in subsection (1), the appellant shall not be

entitled to repayment of any sum paid or borne by the appellant in respect of the costs of any court proceedings or, as the case may be, of any fees or expenses charged by the county registrar or sheriff executing a certificate under section 960K.

Chapter 3

Pre-hearing proceedings

Statement of case

949Q. (1) Where an appeal is accepted in accordance with section 949M, the Appeal Commissioners may give a direction to a party to provide to them such information (in this Part referred to as a 'statement of case') in relation to the matter under appeal as they specify in the direction.

(2) Without prejudice to the generality of subsection (1), the information that may be specified in a foregoing direction includes:

- (a) the statutory provisions being relied upon in relation to the matter under appeal;
- (b) an outline of the relevant facts;
- (c) the relevant case law;
- (d) a list of, and copies of, any written material that a party intends to rely on or produce in the proceedings;
- (e) brief particulars in relation to any witnesses who might be called upon to provide evidence in the proceedings;
- (f) a party's estimation of the likely duration of a hearing;
- (g) whether there is assent, on the part of the party, to the Appeal Commissioners determining the appeal without a hearing;
- (h) whether a party wishes a hearing or a specified part of a hearing to be held in camera;
- (i) whether a party considers that a matter under appeal is one that could be settled by way of an agreement with the other party in accordance with section 949V; and
- (j) such other information as the Appeal Commissioners consider necessary to enable them to schedule a hearing.

Exchange of statement of case

949R. A party who sends a statement of case to the Appeal Commissioners shall, at the time of so sending it, send a copy of the case to the other party together with a copy of any Appeal Commissioners' direction given under section 949Q(1) and shall notify the Appeal Commissioners that the party has done so.

Outline of arguments

949S. (1) The Appeal Commissioners may give a direction to a party to provide, to the Appeal Commissioners and to the other party, an outline of the arguments that the party will make at a hearing, including the details of any statutory provisions and case law to which the party intends to refer in making such arguments (if this has not already been done in compliance with a direction given

under section 949Q), and to do so not less than 14 days before the date appointed for the hearing.

- (2) Unless the Appeal Commissioners consider that there are substantial grounds for such a direction being given solely to one of the parties, a direction under subsection (1) shall be given by them to both of the parties.

Case management conference

949T. (1) At any stage in proceedings, the Appeal Commissioners may give a direction that a party attend a meeting in the nature of, and referred to subsequently in this Part as, a case management conference —

- (a) to review the conduct of the proceedings and the actions that have been taken or that remain to be taken,
- (b) to clarify any matters raised by the parties or by the Appeal Commissioners, and
- (c) so as to enable the Appeal Commissioners to give all such directions as appear to them to be necessary or desirable for the purpose of securing the completion of the proceedings in an expeditious and fair manner.

- (2) With the consent of the parties, the Appeal Commissioners may determine a matter under appeal at, or following, a case management conference without the need to hold a hearing.

- (3) If the Appeal Commissioners permit this to be done, a party may take part in the proceedings of a case management conference by means of a suitable telecommunication link, and accordingly, in such a case, the party shall not be required to appear in person.

Adjudication without a hearing

949U. (1) Subject to subsection (3), the Appeal Commissioners shall not be required to adjudicate on a matter under appeal by way of a hearing and may, where they consider it appropriate, adjudicate on the matter solely by way of—

- (a) the consideration of a notice of appeal, a statement of case or any other written material provided by a party,
- (b) the holding of discussions with a party, or
- (c) any other means they consider appropriate.

- (2) Where the Appeal Commissioners consider that it is appropriate to adjudicate without a hearing, they shall notify the parties in writing of their intention to do so.

- (3) Notwithstanding subsection (1) but subject to section 949AN(3), the Appeal Commissioners shall adjudicate by way of a hearing where a party requests a hearing by notifying the Appeal Commissioners in writing within 21 days after the date of the notification referred to in subsection (2).

Settlement of appeal by agreement

949V. (1) In this section ‘agreement’ means an agreement by way of settlement of the matter under appeal.

- (2) Where, before a hearing is held, the parties come to an agreement with each other, whether in writing or otherwise, an appeal shall be treated as having been withdrawn.
- (3) An agreement that is not in writing shall be deemed not to be an agreement for the purpose of subsections (2) and (4), unless—
- (a) the fact that an agreement was come to, and the terms agreed on, are confirmed by notice in writing given by either of the parties to the other party, and
 - (b) a period of 21 days after the date of the giving of the notice referred to in paragraph (a) has elapsed without the party to whom it was given (the ‘other party’) giving notice in writing to the party by whom the notice so referred to was given that the other party wishes to repudiate or withdraw from the agreement.
- (4) Where the parties come to an agreement with each other, the Revenue Commissioners shall—
- (a) give effect to the agreement, and
 - (b) notify the Appeal Commissioners accordingly.

Staying proceedings

- 949W.** (1) The Appeal Commissioners may, at any stage, stay proceedings in an appeal (in this section referred to as a ‘stayed appeal’) where—
- (a) they wish to provide an opportunity for the parties to settle the matter under appeal by agreement with each other,
 - (b) they wish to give a party additional time in which to prepare for a hearing,
 - (c) they wish to allow a determination to be made in another appeal that raises issues of fact or law that are common or related to those in the stayed appeal (in sections 949AN and 949AO referred to as ‘common or related issues’), or
 - (d) in the interests of justice, they consider it appropriate to do so.
- (2) The Appeal Commissioners shall stay proceedings by giving a direction in accordance with section 949E(1), which direction shall specify a date by which the proceedings are to be resumed.

Chapter 4

*Hearings***Time and place for hearing**

- 949X.** (1) The Appeal Commissioners shall from time to time appoint times and places for the hearing of appeals and shall give written notice of such times and places to the parties.
- (2) The Appeal Commissioners may adjourn a hearing for such a period as they think fit.

Public hearings

- 949Y.** (1) Subject to subsections (2) and (3), every hearing of an appeal by the Appeal Commissioners shall be held in public.
- (2) The Appeal Commissioners may give a direction that a hearing, or part of a hearing, of an appeal is to be held in camera if they consider that the giving of such a direction is necessary—
- (a) in the interests of public order or national security,
 - (b) to avoid serious harm to the public interest,
 - (c) to maintain the confidentiality of sensitive information,
 - (d) to protect an individual's right to respect for his or her private and family life, or
 - (e) in the interests of justice.
- (3) If an appellant—
- (a) applies, in accordance with subsection (4), to the Appeal Commissioners for a direction that the hearing of an appeal, or a specified part of the hearing of an appeal, be held in camera, or
 - (b) has stated, in the appellant's statement of case, that the appellant wishes the hearing of an appeal, or a specified part of the hearing of an appeal, to be held in camera,
- the Appeal Commissioners shall give a direction that the hearing or the specified part of it, as the case may be, shall be held in camera.
- (4) An application under subsection (3) shall be sent to the Appeal Commissioners not later than 14 days after the date on which a notice of the time and place for the hearing of the appeal has been sent in accordance with section 949X to the appellant.

Exclusion from hearings

- 949Z.** (1) The Appeal Commissioners may exclude from a hearing, or part of a hearing, any person—
- (a) whose conduct the Appeal Commissioners consider is disrupting or is likely to disrupt the hearing,
 - (b) whose presence the Appeal Commissioners consider is likely to prevent another person from giving evidence freely,
 - (c) whose attendance at the hearing would defeat the purpose of that hearing, or
 - (d) who is under the age of 18 years.
- (2) The Appeal Commissioners may exclude a witness from a hearing until the witness is required to give evidence.
- (3) The Appeal Commissioners may give a direction under section 949E as to the particular means to be used to exclude a person from a hearing, or part of a hearing.

Parties' attendance at hearings

- 949AA.** (1) An appellant shall attend any hearing unless the Appeal Commissioners excuse the appellant from attendance.

- (2) Where an appellant, or a person acting under the appellant's authority, fails to attend a hearing at the time and place appointed for the hearing, the appeal shall, subject to subsection (3), be treated as if it had been withdrawn.
- (3) Notwithstanding subsection (2), an appeal shall not be treated as if it had been withdrawn where, on an application in writing having been made to them after the time appointed for a hearing, the Appeal Commissioners, are satisfied that—
- (a) owing to absence, illness or other reasonable cause, the appellant was prevented from attending the hearing, and
 - (b) the application was made thereafter without unreasonable delay.
- (4) A Revenue officer may attend any hearing and shall be entitled—
- (a) to be present during the whole of any hearing and at the determination of the appeal, and
 - (b) to give evidence or reasons in support of an assessment or the other appealable matter concerned.
- (5) Where it appears to a Revenue officer that an appellant ought to be charged in an amount exceeding the amount contained in an assessment that is under appeal, nothing in subsection (4) shall preclude the officer from giving evidence or reasons in support of such a higher amount.
- (6) Where the Appeal Commissioners give a direction under section 949F making a person referred to in that section a party to an appeal, that person shall not be entitled, without the consent of the other parties to the appeal—
- (a) in the case of a hearing, none of which relates to the matter affecting the liability to tax of that person ('the liability concerned'), to attend any part of that hearing, or
 - (b) in the case of a hearing, part of which relates to the liability concerned and part of which does not so relate, to attend the latter part.

Parties' representatives

949AB. (1) The Appeal Commissioners shall hear any barrister or solicitor, or any person who is a member of a professional body (within the meaning of section 851A(I)), who appears on behalf of a party.

(2) Notwithstanding that a person appearing on behalf of an appellant does not fall within subsection (1), the Appeal Commissioners may hear such a person if they are satisfied that it is appropriate to do so.

Evidence

949AC. The Appeal Commissioners may—

- (a) allow evidence to be given orally or in writing,
- (b) admit evidence whether or not the evidence would be admissible in proceedings in a court in the State, or
- (c) exclude evidence that would otherwise be admissible where—

- (i) the evidence was not provided within the time allowed by a direction,
- (ii) the evidence was provided in a manner that did not comply with a direction, or
- (iii) they consider that it would be unfair to admit the evidence.

Oath

949AD. (1) The Appeal Commissioners may require any person who gives evidence to swear an oath in relation to the evidence.

(2) Where the Appeal Commissioners administer an oath, they shall inform the person swearing the oath that the giving of false evidence may be punishable under section 1066.

Summoning and examination of witnesses

949AE. (1) The Appeal Commissioners may summon any person to appear before them to be examined where they consider such a person to be in a position to give evidence relating to a matter under appeal.

(2) A summons under subsection (1) shall—

- (a) unless the person being summoned consents to a shorter period, be sent to that person not less than 21 days before the date of a hearing,
- (b) inform the person being summoned of his or her entitlement to apply to the Appeal Commissioners to vary or set aside the summons if he or she did not have an opportunity to object to it before it was issued, and
- (c) state the consequences, under section 949AU, of failure to comply with the summons.

(3) The Appeal Commissioners may limit the number of witnesses whose evidence a party may put forward.

Oral determinations

949AF. The Appeal Commissioners may, at the conclusion of a hearing, make the determination referred to in section 949AJ orally but such a determination shall be reduced to writing thereafter and that section shall apply accordingly.

Chapter 5

*Determinations***Appeal Commissioners to have regard to same matters as Revenue Commissioners**

949AG. Unless the Acts provide otherwise, in adjudicating on and determining an appeal, the Appeal Commissioners shall have regard to all matters to which the Revenue Commissioners may or were required by the Acts to have regard—

- (a) in making their decision or determination,
- (b) in making or amending an assessment,
- (c) in forming an opinion, or

(d) in taking any other action,
in relation to the matter under appeal.

Mode of proceeding if appeal adjudicated on by way of a hearing

949AH. Where the Appeal Commissioners adjudicate on a matter under appeal by way of a hearing, they shall determine the matter by examination of the appellant or by hearing other evidence of the kind referred to in section 949AC.

Incomplete information

949AI. Where a party or another person fails to comply, to the Appeal Commissioners' satisfaction, with a direction given by them under subsection (1) of section 949E in relation to the matter referred to in subsection (2)(a) of that section, the Appeal Commissioners may, where they consider it appropriate, determine an appeal according to the best of their judgement instead of acting in accordance with section 949AV.

Determinations and their notification

949AJ. (1) As soon as practicable after the completion of their adjudication of an appeal, the Appeal Commissioners shall determine the appeal.

(2) Subsection (3) applies unless, by virtue of *section 7* of the *Finance (Tax Appeals) Act 2015*, the number of Appeal Commissioners who have adjudicated on and determined an appeal is one.

(3) The number of Appeal Commissioners who shall adjudicate on and determine an appeal shall be three or a number, being an odd number, greater than three.

(4) The determination of an appeal by the Appeal Commissioners, where the number of them who have adjudicated on it is three or more, shall be that of the majority of them.

(5) The Appeal Commissioners, not later than 21 days after determining the appeal, shall notify the parties in writing of—

- (a) their determination, and
- (b) the time within which, and the manner in which, any right of appeal against the determination may be exercised.

(6) For the purpose of the notification referred to in subsection (5), a determination shall comprise—

- (a) the determination,
- (b) a statement of the Appeal Commissioners' material findings of fact,
- (c) a statement of the reasons for the determination,
- (d) the name of the appellant, and
- (e) the date on which the determination was made.

Determinations in relation to assessments

949AK. (1) In relation to an appeal against an assessment, the Appeal Commissioners shall, if they consider that—

- (a) an appellant has, by reason of the assessment, been overcharged, determine that the assessment be reduced accordingly,
 - (b) an appellant has, by reason of the assessment, been undercharged, determine that the assessment be increased accordingly, or
 - (c) neither paragraph (a) nor (b) applies, determine that the assessment stand.
- (2) If, on an appeal against an assessment that—
- (a) assesses an amount that is chargeable to tax, and
 - (b) charges tax on the amount assessed,
- the Appeal Commissioners consider that the appellant is overcharged or, as the case may be, undercharged by the assessment, they may, unless the circumstances of the case otherwise require, give as their determination in the matter a determination solely to the effect that the amount chargeable to tax be reduced or increased.
- (3) In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was precluded from making the assessment or the amendment, as the case may be, the Acts (within the meaning of section 959A) shall apply as if the assessment or the amendment had not been made and, accordingly, that assessment or amended assessment shall be void.
- (4) In relation to an appeal against an assessment on the grounds referred to in section 959AF(2), if the Appeal Commissioners determine that a Revenue officer was not precluded from making the assessment or the amendment, as the case may be, that assessment or amended assessment shall stand, but this is without prejudice to the Appeal Commissioners making a determination in relation to that assessment or amended assessment on foot of an appeal on grounds other than those referred to in section 959AF(2).

Determinations other than in relation to assessments

- 949AL.** (1) In relation to an appeal against an appealable matter, other than—
- (a) an assessment, or
 - (b) a matter referred to in section 949AK(3),
- the Appeal Commissioners shall, if they consider that the decision, determination or other matter, as the case may be, ought to be varied, determine that the decision, determination or other matter be varied, even if such variation is not to the advantage of the appellant; otherwise they shall determine that the decision, determination or other matter stand.
- (2) The Appeal Commissioners shall, if they consider that a Revenue officer was precluded from making the enquiry or taking the action, as the case may be, referred to in section 959AJ, determine that the officer was so precluded; otherwise they shall determine that the officer was not so precluded.

Revenue Commissioners to give effect to determinations

949AM. (1) The Revenue Commissioners shall give effect to any determination made by the Appeal Commissioners unless the determination has been appealed to the High Court in accordance with sections 949AP and 949AQ.

(2) In relation to an assessment, in giving effect to a determination, the Revenue Commissioners shall calculate the tax chargeable in respect of the amount assessed to tax.

(3) If, in relation to an assessment, the determination of the Appeal Commissioners is that the assessment is to stand or is to be amended, as the case may be, the assessment or the amended assessment shall be final and conclusive, unless the determination is appealed to the High Court in accordance with sections 949AP and 949AQ.

(4) If, in relation to an appeal under section 959AJ, the Appeal Commissioners determine that a Revenue officer was precluded from making the enquiry or taking the action, as the case may be, referred to in that section—

(a) the officer shall cease the enquiry or action, and

(b) the appellant shall not be required to take any action pursuant to the officer's enquiry or action.

Appeals raising common or related issues

949AN. (1) Subject to subsection (2), in adjudicating on and determining an appeal (in this section referred to as a 'new appeal'), the Appeal Commissioners may—

(a) have regard to a previous determination made by them in respect of an appeal that raised common or related issues, and

(b) if they consider it appropriate, in the light of such a determination, determine the new appeal without holding a hearing.

(2) Where the Appeal Commissioners wish to act in accordance with subsection (1), they shall—

(a) send a copy of the previous determination referred to in that subsection to the parties in a way that, in so far as it is possible, does not reveal the identity of any person whose affairs were dealt with on a confidential basis during the proceedings concerned (being proceedings that were not held in public),

(b) request that each of the parties submit arguments to them within 21 days after the date of the request in relation to why it would not be appropriate to have regard to the previous determination in determining the new appeal, and

(c) request that each of the parties state whether the party wishes the Appeal Commissioners to hold a hearing and, where a party so wishes, to require that the party explain why such a hearing is considered to be necessary or desirable.

(3) Notwithstanding section 949U, the Appeal Commissioners may make a determination in an appeal under subsection (1) where—

- (a) no response is received from a party within the period referred to in subsection (2)(b), or
- (b) a response is received but the Appeal Commissioners are not persuaded that it would be appropriate to disregard the previous determination referred to in subsection (1) and hold a hearing to determine the new appeal.

Publication of determinations

949AO. (1) Subject to subsection (2), the Appeal Commissioners shall publish a report of each of their determinations on the internet not later than 90 days after notifying the parties in accordance with section 949AJ.

(2) The report referred to in subsection (1) shall contain—

- (a) a copy of the determination (as that expression is to be read in accordance with section 949AJ(6)),
- (b) the date on which it was notified to the parties,
- (c) a statement about whether a case stated under Chapter 6 was requested for the High Court, and
- (d) any other information the Appeal Commissioners consider relevant or appropriate.

(3) Where determinations have been made in respect of more than one appeal that raised common or related issues, it shall be sufficient for the purpose of subsection (1) for the Appeal Commissioners to publish a report containing a single determination together with—

(a) unless paragraph (b)(i) or (ii) applies, the names of all of the appellants, or

(b) if—

(i) all of the hearings, in respect of every appeal concerned, were held in camera, a statement of the number of appellants to which the determination applies, or

(ii) all of the hearings, in respect of any of the appeals concerned, were held in camera—

(I) a statement of the number of appellants to which the determination applies, and

(II) save for the names of the one or more appellants whose appeals were so held in camera, the names of the appellants.

(4) A report shall be published in a way that, in so far as it is possible, does not reveal the identity of any person whose affairs were dealt with on a confidential basis during the proceedings concerned (being proceedings that were not held in public).

Chapter 6*Appealing determinations of the Appeal Commissioners***Appealing against determinations**

- 949AP.** (1) The Appeal Commissioners' determination in respect of an appealable matter shall be final and conclusive but this is without prejudice to the provisions of this Chapter concerning appeals to the High Court.
- (2) A party who is dissatisfied with a determination as being erroneous on a point of law may by notice in writing require the Appeal Commissioners to state and sign a case (in this Chapter referred to as a 'case stated') for the opinion of the High Court.
- (3) The notice referred to in subsection (2) shall—
- (a) state in what particular respect the determination is alleged to be erroneous on a point of law,
 - (b) be sent to the Appeal Commissioners within 21 days after the date of the notification of their determination under section 949AJ(1), and
 - (c) be sent to the other party when it is being sent to the Appeal Commissioners.
- (4) This section shall not apply in relation to an appealable matter where a provision of the Acts (other than this section) provides that the determination of the Appeal Commissioners in relation to that matter shall be final and conclusive.

Case stated for High Court

- 949AQ.** (1) (a) A case stated shall contain—
- (i) the Appeal Commissioners' material findings of fact,
 - (ii) an outline of the arguments made by the parties,
 - (iii) the case law relied on by the parties,
 - (iv) the Appeal Commissioners' determination and the reason for the determination, and
 - (v) the point of law as set out in the notice referred to in section 949AP(2) on which the opinion of the High Court is sought.
- (b) A party who has set out in a notice, by the means provided for by section 949AP(2), a point of law may not set out an additional or an alternative point of law after the period referred to in section 949AP(3)(b) has elapsed.
- (2) The Appeal Commissioners shall be responsible for the drafting of a case stated and shall not delegate this task to a party (but this is without prejudice to the next following subsection enabling representations in relation to a draft of the case stated).
- (3) Before completing and signing a case stated, the Appeal Commissioners shall—
- (a) send to the parties a draft of the case stated that they propose signing, and
 - (b) include, with that draft, a notice indicating that each of the parties may, within 21 days after the date on which the draft has been sent to them, make to the Appeal Commissioners representations in writing in relation to the draft,

and each of the parties may make such representations within that period accordingly.

- (4) The Appeal Commissioners shall have regard to any representations so made and may, if they consider it appropriate to do so, modify the draft of the case stated before completing and signing it.
- (5) If a party makes representations pursuant to subsection (3), the party shall, at the same time as the party sends the representations to the Appeal Commissioners, send a copy of them to the other party.
- (6) As soon as practicable, but not later than three months after receiving the notice referred to in section 949AP(3)(b), the Appeal Commissioners shall complete and sign a case stated and send it to the parties.
- (7) A party requesting the case stated shall send it to the High Court within 14 days after the date on which it was sent to the party by the Appeal Commissioners in accordance with subsection (6).
- (8) The High Court shall not decline to hear and determine any question of law arising in a case stated by reason of the fact that a thing referred to in subsection (6) or (7) has not been done within the period specified by subsection (6) or (7), as the case may be, if it determines that, in all the circumstances of the matter, it would not be in the interests of justice to so decline to hear and determine that question.

Determinations of High Court

949AR. (1) The High Court shall hear and determine any question of law arising in a case stated and—

- (a) shall reverse, affirm or amend the determination of the Appeal Commissioners,
- (b) shall remit the matter to the Appeal Commissioners with its opinion on the matter, or
- (c) may make such other order in relation to the matter as it thinks just,

and may make such order as to costs as it thinks fit.

(2) The High Court may send the case stated back to the Appeal Commissioners for amendment, in which case—

- (a) the Appeal Commissioners shall amend the case stated accordingly, and
- (b) the High Court shall, thereafter, proceed in one of the ways specified in subsection (1).

Appeal to Court of Appeal

949AS. An appeal shall lie from a decision, under section 949AR, of the High Court to the Court of Appeal.

Revenue Commissioners to give effect to decisions of High Court, Court of Appeal and Supreme Court

949AT. (1) Section 949AM shall apply to a determination made by the Appeal Commissioners that has been reversed, affirmed or

amended by the High Court or the Court of Appeal as it applies to a determination that has not been so reversed, affirmed or amended but, in the case of a decision of the High Court that is appealed to the Court of Appeal under section 949AS, the application (by virtue of this subsection) of section 949AM does not operate for any part of the period during which the appeal to the Court of Appeal remains undisposed of.

- (2) Where, in respect of a decision of the High Court or the Court of Appeal, the Supreme Court, in the circumstances specified by the Constitution, decides to exercise its appellate jurisdiction subsection (1) shall have effect as if—
- (a) after ‘Court of Appeal’, where it first occurs in that subsection, there were inserted ‘or the Supreme Court’,
 - (b) for ‘decision of the High Court that is appealed to the Court of Appeal under section 949AS’ in that subsection there were substituted ‘decision of the High Court or the Court of Appeal in respect of which the Supreme Court, in the circumstances specified by the Constitution, decides to exercise its appellate jurisdiction’, and
 - (c) for ‘Court of Appeal’, where it last occurs in that subsection, there were substituted ‘Supreme Court’.

Chapter 7

Penalties and Sanctions

Summoning and examination of witnesses

949AU. (1) A person who, after being summoned to appear before the Appeal Commissioners at the time and place appointed for a hearing in accordance with section 949AE—

- (a) fails or refuses to so appear,
- (b) so appears but refuses to swear an oath,
- (c) so appears but refuses to answer any lawful questions relating to a matter under appeal,

shall, subject to subsection (2), be liable to a penalty of €3,000.

(2) Subsection (1)(b) and (c) shall not apply to any employee, agent or other person confidentially employed in the affairs of an appellant.

(3) A document purporting to be signed by the Appeal Commissioners stating that—

- (a) a person named in the document was, by summons under section 949AE, required to attend before them on a day and at a time and place specified in the document, and
- (b) a sitting of the Appeal Commissioners was held on that day and at that time and place,

shall, in proceedings for a penalty under subsection (1), be evidence of the matters so stated unless the contrary is shown.

(4) Where—

- (a) in the absence of an agreement between a person and the Appeal Commissioners that the person is liable to a penalty under this section, or
 - (b) following the failure by a person to pay a penalty under this section that the person has agreed a liability to,
- the Appeal Commissioners are of the opinion that the person is liable to the penalty, the Appeal Commissioners shall give notice in writing to the person of that opinion and that notice shall specify—
- (i) the provision under which the penalty arises,
 - (ii) the circumstances in which the person is liable to the penalty, and
 - (iii) the amount of the penalty to which the person is liable,
- and include such other details as the Appeal Commissioners consider appropriate.
- (5) Where a person to whom a notice has been given under subsection (4) does not, within 30 days after the date of the notice—
- (a) agree in writing with the opinion contained in that notice, and
 - (b) make a payment to the Appeal Commissioners of the amount of the penalty specified in that notice,
- the Appeal Commissioners may apply to the District Court for that Court to determine whether the failure or refusal referred to in subsection (1) by the person gives rise to a liability to the penalty referred to in that subsection.
- (6) The Appeal Commissioners shall give a copy of any application under subsection (5) to the District Court to a person who is the subject of the application.

Dismissal of an appeal

- 949AV.** (1) The Appeal Commissioners may dismiss an appeal where a party has failed to comply, to the Appeal Commissioners' satisfaction, with a direction given by them under subsection (1) of section 949E in relation to the matter referred to in subsection (2)(a) of that section.
- (2) Subject to subsection (3), the Appeal Commissioners shall not dismiss an appeal under this section without first giving a party—
- (a) written notice of their intention to do so,
 - (b) a statement of the reasons and considerations on which their intention is based, and
 - (c) an opportunity for the party to—
 - (i) provide an explanation as to why the party does not agree with the Appeal Commissioners' proposed course of action, or
 - (ii) comply with the direction referred to in subsection (1) to the Appeal Commissioners' satisfaction.

- (3) The Appeal Commissioners shall consider any explanation provided by a party under subsection (2)(c)(i) but—
- (a) having considered an explanation by whatever means they consider appropriate, and
 - (b) having decided, notwithstanding the explanation, to dismiss an appeal,
- their decision shall be final and conclusive.”.

PART 5

CONSEQUENTIAL AMENDMENTS TO ACT OF 1997 AND CERTAIN OTHER ENACTMENTS

Consequential amendments to Parts 1 to 7 of Act of 1997

35. (1) Part 1 of the Act of 1997 is amended—

(a) in section 2(1) —

- (i) by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

- (ii) by deleting the definition “Clerk to the Appeal Commissioners”, and

- (iii) in paragraph (b) of the definition of “inspector” by substituting “and the making of determinations” for “, the making of determinations and dealing with notices of appeal against assessments and determinations”,

and

- (b) in section 5 by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”.

(2) Part 2 of the Act of 1997 is amended by substituting the following for subsections (8) and (9) of section 29:

“(8) A person aggrieved by a decision of the Revenue Commissioners on any question as to the domicile or ordinary residence of that person arising under the Capital Gains Tax Acts may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of the decision.”.

(3) Part 3 of the Act of 1997 is amended by substituting the following for subsections (3) and (4) of section 35:

“(3) A person aggrieved by a decision of the Revenue Commissioners on any question as to the residence of that person arising under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of the decision.”.

(4) Part 4 of the Act of 1997 is amended—

(a) in section 63 by substituting the following for subsections (3) and (4):

“(3) A person aggrieved by a decision of the Revenue Commissioners on any question as to the residence of that person arising under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of the decision.”,

(b) in section 71 by substituting the following for subsections (5) and (6):

“(5) A person aggrieved by a decision of the Revenue Commissioners on any question as to the domicile of that person arising under subsection (2) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of the decision.”,

(c) in section 73(3)(a)(ii) by inserting “in determining an appeal against an assessment” after “the Appeal Commissioners”,

(d) in section 85(4)(c) by substituting “in determining an appeal against an assessment made on the basis of the apportionment; but, during the adjudication of any such appeal” for “or by the Circuit Court on the hearing or the rehearing of an appeal against an assessment made on the basis of the apportionment; but, on the hearing or the rehearing of any such appeal”,

(e) by inserting the following after section 100:

“Appeals against determinations under sections 98 to 100

100A. (1) Before making a determination of any amount on which a person may be chargeable to tax by virtue of section 98, 99 or 100, which determination the inspector considers may affect the liability to tax of any other person, the inspector shall—

(a) send a notice in writing to that other person, as well as to the first-mentioned person, of the determination he or she proposes to make, and

(b) allow each person to whom the notice is sent to deliver, in writing, to the inspector, within the period of 30 days after the date of the notice, an objection to the proposed determination stating the reason for the objection.

(2) An inspector may, by notice in writing given to the person, require any person to give to the inspector, within 21 days after the date of the notice or such longer period as the inspector may allow, such information as appears to the inspector to be required for the purposes of the inspector’s deciding whether to give a notice under subsection (1).

(3) On the expiry of the period referred to in paragraph (b) of subsection (1), the inspector, having considered the objections, if any, that have been received on foot of the notice under that subsection, may make whatever determination he or she considers appropriate and shall send the determination to any person whom he or she considers may be affected by it.

(4) A person to whom the determination referred to in subsection (3) has not been sent, being a person whose liability to tax may be affected by the determination, may request the inspector to provide to him or her a copy of the determination.

- (5) A person aggrieved by the determination referred to in subsection (3) may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the determination.
- (6) Where the foregoing determination has been appealed by another person, subsections (4) and (5) shall not operate to prevent a person to whom the determination has not been sent from applying to the Appeal Commissioners for a direction under section 949F making the person a party to the appeal concerned.
- (7) Where an appeal against the determination referred to in subsection (3) is determined by the Appeal Commissioners, each person—
- (a) to whom the determination was sent, or
- (b) who was made a party to the appeal,
- shall be bound by the Appeal Commissioners' determination, and their successors in title shall also be so bound.
- (8) A notice under subsection (1) may, notwithstanding any obligation on the inspector as to confidentiality or the disclosure of information imposed by any enactment or otherwise, include a statement of the grounds on which the inspector proposes to make the determination.”,

and

(f) in section 111—

(i) in subsection (2) by substituting “is made” for all the words beginning with “is made” down to and including the last word in that subsection, and

(ii) by inserting the following after subsection (2):

“(3) A lessor aggrieved by an inspector's decision in relation to a claim by that lessor under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”.

(5) Part 5 of the Act of 1997 is amended in section 121—

(a) in subsection (6)(d) by substituting “in determining an appeal” for “or the Circuit Court on the hearing or the rehearing of an appeal”,

(b) by substituting the following for subparagraph (i) of subsection (7)(e):

“(i) An employer aggrieved by a decision of the inspector that a car has not been included in a car pool for the use of the employees of one or more employers may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of that decision.”,

(c) by deleting subparagraph (ii) of subsection (7)(e), and

(d) in subsection (7)(e)(iii) by deleting “or the Circuit Court, as the case may be,”.

(6) Part 6 of the Act of 1997 is amended—

(a) in section 141 by substituting the following for subparagraph (ii) of subsection (5)(d):

“(ii) A recipient aggrieved by a determination of the Revenue Commissioners made under subparagraph (i) in respect of that recipient may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of the determination.”,

and

(b) in section 172K—

(i) by substituting the following for paragraph (a) of subsection (6):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of dividend withholding tax.”,

and

(ii) by inserting the following after subsection (8):

“(9) (a) Subject to paragraph (b), an accountable person aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, an accountable person is required to make a return and account for dividend withholding tax to the Collector-General, no appeal lies against an assessment until such time as the accountable person makes the return and pays or has paid the amount of the dividend withholding tax payable on the basis of that return.”.

(7) Part 7 of the Act of 1997 is amended—

(a) in section 189A(1) in the definition of “qualifying trust” —

(i) by deleting “in respect of which it is shown to the satisfaction of the inspector or, on appeal, to the Appeal Commissioners, that”,

(ii) in paragraphs (a) and (b) by substituting “that” for “the trust” where it first appears, and

(iii) in paragraph (c) by substituting “where no trustee” for “none of the trustees”,

(b) in section 195—

(i) in subsection (6)(b)(ii) by substituting “appeal to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the end of the relevant period” for “; by notice in writing given to the Revenue Commissioners within 30 days after the end of the relevant period, appeal to the Appeal Commissioners”,

(ii) by deleting subsection (7),

(iii) by deleting subsection (8)(b),

(iv) by deleting subsection (9), and

(v) by substituting the following for subparagraph (ii) of subsection (13)(b):

“(ii) a determination by the High Court under section 949AR.”,

(c) in section 211 by substituting the following for subsection (4):

“(4) A friendly society aggrieved by a determination of the Revenue Commissioners under this section in relation to the society may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,

(d) in section 231(1)(b) by deleting “it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that”,

(e) in section 233(2)(b) by deleting “it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that”, and

(f) in section 235—

(i) in subsection (2) by substituting “that is income” for “as is shown to the satisfaction of the Revenue Commissioners to be income”, and

(ii) by substituting the following for subsection (4):

“(4) A body of persons aggrieved by a notice given to that body by the Revenue Commissioners under subsection (1) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice.”.

Consequential amendments to Parts 8 to 18 of Act of 1997

36. (1) Part 8 of the Act of 1997 is amended—

(a) in section 244A by substituting the following for paragraph (d) of subsection (4):

“(d) A body aggrieved by a decision of the Revenue Commissioners not to register that body or to cancel its registration, as the case may be, may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”,

(b) in section 258—

(i) in subsection (8)(b) by substituting “Notwithstanding subsection (4)(e), on the determination” for “On the determination”,

(ii) by substituting the following for paragraph (a) of subsection (9):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”,

and

(iii) by inserting the following after subsection (9):

“(9A) (a) Subject to paragraph (b), a relevant deposit taker aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, a relevant deposit taker is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the relevant deposit taker makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”,

and

(c) in section 267 by substituting the following for subsection (1):

“(1) In this section, ‘relevant person’ means an individual, or his or her spouse or civil partner, who—

(a) at some stage during the relevant year, was of the age of 65 years or over, or

(b) throughout the relevant year, or from some time during the relevant year, as the case may be, was or became permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself.”.

(2) Part 9 of the Act of 1997 is amended—

(a) in section 291A—

(i) in subsection (8)(a) by substituting “An authorised officer” for “The Revenue Commissioners or an authorised officer”, and

(ii) by substituting the following for paragraph (b) of subsection (8):

“(b) Before disclosing information to any expert under paragraph (a), an authorised officer shall give the company a notice in writing of—

(i) the officer’s intention to disclose information to an expert,

(ii) the information that the officer intends to disclose, and

(iii) the identity of the expert whom the officer intends to consult,

and shall allow the company a period of 30 days after the date of the notice to show to his or her satisfaction that disclosure of such information to that expert could prejudice the company’s trade.

(c) Where, on the expiry of the period referred to in paragraph (b), it is not shown to the satisfaction of the authorised officer that disclosure could prejudice the company’s trade, the officer may disclose the information on the expiry of a further period of 30 days after giving notice in writing of his or her decision to disclose the information.

(d) A company aggrieved by an authorised officer’s decision made under paragraph (c) in respect of it may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.”,

(b) in section 305 by substituting the following for subsections (2) and (3):

“(2) A claim for an allowance under subsection (1) shall be made to and determined by the inspector.

(3) A person aggrieved by a determination of the inspector in relation to a claim by that person for an allowance may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,

and

(c) in section 314 by substituting the following for subsection (1):

“(1) (a) Where, in relation to an apportionment to be made under this Part—

(i) it appears, at the time of the apportionment, that it is material as respects the liability to tax (for whatever period) of 2 or more persons, and

(ii) it is not possible for a person making the apportionment and the relevant inspector to agree on the apportionment,

the inspector shall determine the apportionment and give notice in writing of the determination to each person affected by that apportionment.

(b) A person aggrieved by a determination made under paragraph (a) in respect of that person may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination, for their determination of a just and reasonable apportionment.”.

(3) Part 10 of the Act of 1997 is amended—

(a) in section 323(5) by deleting “determined by the inspector, according to the best of the inspector’s knowledge and judgement, to be” and “and any amount which by virtue of this subsection is determined by the inspector may be amended by the Appeal Commissioners or by the Circuit Court on the hearing or the rehearing of an appeal against that determination”,

(b) by deleting section 372AT, and

(c) by deleting subsection (10) of section 372AAB.

(4) Part 12 of the Act of 1997 is amended—

(a) in section 381 by substituting the following for subsections (6) and (7):

“(6) A claim to repayment under this section shall be made, in a form prescribed by the Revenue Commissioners, not later than 2 years after the end of the year of assessment and shall be determined by the inspector.

(7) A person aggrieved by a determination of the inspector in relation to a claim by that person to repayment may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,

(b) in section 389 by substituting the following for subsections (1) and (2):

- “(1) A claim under section 385 shall be made to and determined by the inspector.
- (2) A person aggrieved by a determination of the inspector under subsection (1) in relation to a claim by that person may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,
- (c) in section 400 by substituting the following for subsection (13):
- “(13) (a) Where, in relation to an apportionment to be made under subsection (12) —
- (i) it appears, at the time of the apportionment, that it is material as respects the liability to tax (for whatever period) of 2 or more companies, and
- (ii) it is not possible for a company making the apportionment and the relevant inspector to agree on the apportionment,
- the inspector shall determine the apportionment and give notice in writing of the determination to each company affected by that apportionment.
- (b) A company aggrieved by a determination made under paragraph (a) in respect of that company may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination, for their determination of a just and reasonable apportionment.”,
- (d) in section 403(9)(c) by deleting “it appears to the inspector (or on appeal to the Appeal Commissioners) that”, and
- (e) in section 408 by substituting the following for subsection (3):
- “(3) A person aggrieved by a decision made by the Revenue Commissioners in respect of that person in relation to the practice referred to in subsection (1) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”.
- (5) Part 13 of the Act of 1997 is amended in section 436A(4) by deleting “it is shown to the satisfaction of the inspector or, on the hearing or the rehearing of an appeal, to the satisfaction of the Appeal Commissioners or a judge of the Circuit Court, as the case may be, that”.
- (6) Part 15 of the Act of 1997 is amended—
- (a) in section 473 by substituting the following for subsection (7):
- “(7) A claimant aggrieved by a decision of the inspector in relation to a claim for relief by that claimant may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”,
- and
- (b) in section 486B(4)(b) by substituting “such apportionment of the relief available shall be made as is just and reasonable” for “the inspector or, on appeal, the Appeal Commissioners shall make such apportionment of the relief available as shall be just and reasonable”.
- (7) Part 18 of the Act of 1997 is amended—

(a) in section 529G(4) —

(i) by substituting the following for paragraph (a):

“(a) A qualifying company aggrieved by an assessment or an amended assessment, as the case may be, made on that company under this section may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”,

and

(ii) by deleting paragraph (c),

(b) in section 529I by substituting the following for subsections (2) and (3):

“(2) A specified person aggrieved by a determination of a Revenue officer made under subsection (1)(d)(iv) in respect of that person may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that determination.”,

(c) in section 530I—

(i) by substituting the following for paragraph (a) of subsection (3):

“(a) A subcontractor aggrieved by a determination of the Revenue Commissioners made under subsection (1) in respect of that subcontractor may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that determination.”,

and

(ii) by deleting paragraph (b) of subsection (3),

and

(d) in section 530N—

(i) by substituting the following for paragraph (a) of subsection (5):

“(a) Subject to paragraph (b), a person aggrieved by an assessment, or an amended assessment, as the case may be, made on that person may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”,

(ii) by deleting paragraph (c) of subsection (5), and

(iii) in subsection (7)(b) by substituting “the Appeal Commissioners shall make their determination” for “a hearing of the Appeal Commissioners shall be”.

Consequential amendments to Parts 18A to 24 of Act of 1997

37. (1) Part 18A of the Act of 1997 is amended by deleting subsection (1) of section 531M.

(2) Part 18C of the Act of 1997 is amended by deleting subsection (1) of section 531AJ.

(3) Part 18D of the Act of 1997 is amended by deleting paragraph (c) of section 531AAA.

(4) Part 19 of the Act of 1997 is amended—

(a) in section 544—

(i) in subsection (5) by substituting “be just and reasonable” for “be such method as appears to the inspector or on appeal to the Appeal Commissioners to be just and reasonable”, and

(ii) in subsection (7) by substituting “any determination on an appeal” for “any decision on an appeal”,

and

(b) in section 604—

(i) in subsection (7) by inserting “against an assessment” after “on an appeal”,

(ii) in subsection (8)(a) by substituting “the period” for “that period if it is later”,

(iii) by substituting the following for paragraph (b) of subsection (8):

“(b) failing such agreement, the question shall be determined by the inspector as respects either the whole or specified parts of the period of ownership in question.”,

(iv) by deleting all the words in subsection (8) that follow paragraph (b) of it (the subject of the immediately preceding amendment), and

(v) by inserting the following after subsection (8):

“(8A) The inspector shall give notice of a determination under subsection (8)(b) to the individual who, if aggrieved by the determination, may appeal it to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”.

(5) Part 20 of the Act of 1997 is amended in section 621 by substituting the following for subsections (6) and (7):

“(6) A person making an ultimate disposal who is or has at any time been a member of the group of companies referred to in subsection (3) or (4) shall, for the purposes of making a self-assessment, reduce any loss on the disposal to such an extent that the loss does not reflect any diminution in the value of the company’s assets attributable to a depreciatory transaction; but, if the person making the ultimate disposal is not a member of that group when disposing of the shares or securities, no reduction of the loss shall be made by reference to a depreciatory transaction that took place when that person was not a member of that group.

(7) (a) Subject to paragraph (b), the inspector, in making an assessment, or the Appeal Commissioners, on an appeal against an assessment, shall reduce any allowable loss to such extent as appears to the inspector or the Appeal Commissioners to be just and reasonable on the basis that the loss ought not to reflect any diminution in the value of the company’s assets attributable to a depreciatory transaction.

(b) Allowance may be made for any transaction, other than a depreciatory transaction, on or after 6 April 1974 that has

enhanced the value of the company's assets and depreciated the value of the assets of any other member of the group.”.

- (6) Part 21 of the Act of 1997 is amended by substituting the following for section 638:

“Apportionment of amounts

638. (1) Where, in relation to an apportionment to be made for the purposes of this Part—

(a) it appears, at the time of the apportionment, that it is material as respects the liability to tax (for whatever period) of 2 or more companies, and

(b) it is not possible for a company making the apportionment and the appropriate inspector to agree on that apportionment,

the inspector shall determine the apportionment and give notice in writing of the determination to each company affected by that apportionment.

(2) A company aggrieved by a determination made under subsection (1) in respect of that company may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination, for their determination of a just and reasonable apportionment.”.

- (7) Part 22 of the Act of 1997 is amended in section 641(4)(c) by substituting “on a just and reasonable basis” for “as appear to the inspector or on appeal to the Appeal Commissioners to be just and reasonable”.

- (8) Part 23 of the Act of 1997 is amended—

(a) in section 657(4)(a) —

(i) by substituting “and the assessment shall be amended as necessary so as to give effect to the election so made by the individual.” for “and -”, and

(ii) by deleting subparagraphs (i) and (ii),

(b) in section 658 by deleting subsections (7) and (8),

(c) in section 659 by deleting subsections (6) and (7),

(d) in section 664(4) —

(i) in paragraph (a) by substituting “as is properly attributable to the lease of the farm land, and after such apportionments of rent, expenses and other deductions as are necessary,” for “as is determined by the inspector and after such apportionments of rent, expenses and other deductions as are necessary, according to the best of the inspector’s knowledge and judgement, to be properly attributable to the lease of the farm land”, and

(ii) by deleting paragraph (b),

and

(e) in section 669—

(i) in subsection (1)(a) by substituting “as is just and reasonable” for “as appears to the inspector (or on appeal to the Appeal Commissioners) to be just and reasonable”,

(ii) in subsection (5)(a) by substituting “trading stock of such value as is just and reasonable” for “trading stock of such value as appears to the inspector to be just and reasonable”, and

(iii) by deleting paragraph (c) of subsection (5).

(9) Part 24 of the Act of 1997 is amended—

(a) in section 670 by substituting the following for subsection (14):

“(14) A person aggrieved by a decision of the inspector on an application by that person for an allowance under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of the decision.”,

and

(b) by substituting the following for paragraph (b) of section 696B(3):

“(b) Any necessary apportionment in computing taxable field profits or taxable field expenditure of a company under paragraph (a) shall be made on a just and reasonable basis.”.

Consequential amendments to Parts 24A to 33 of Act of 1997

38. (1) Part 24A of the Act of 1997 is amended by substituting the following for section 697G:

“Appeals

697G. (1) A company aggrieved by a notice given to it under section 697F(3) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.

(2) One appeal only may be made where a notice is given to a tonnage tax company that is a member of a group of companies, but the appeal may be made jointly by 2 or more members of the group.”.

(2) Part 25A of the Act of 1997 is amended in section 705O by substituting the following for subsections (6) and (7):

“(6) A REIT aggrieved by a notice given to it by an authorised officer under subsection (4) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.”.

(3) Part 26 of the Act of 1997 is amended—

(a) in section 711(2)(a) by substituting the following for the definition of “the appropriate amount in respect of the interest”:

“ ‘the appropriate amount in respect of the interest’ means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 21 if a company was the first buyer and carried on a trade to which section 749(1) applies;”,

(b) in section 730G—

(i) by deleting paragraph (b) of subsection (6),

(ii) by substituting the following for paragraph (a) of subsection (7):

“(7) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”,

and

(iii) by inserting the following after subsection (7):

“(7A) (a) Subject to paragraph (b), an assurance company aggrieved by an assessment made on that company under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, an assurance company is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the assurance company makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”.

(4) Part 27 of the Act of 1997 is amended—

(a) in section 734(6)(b) by substituting “such apportionment shall be made” for “the inspector or on appeal the Appeal Commissioners shall make such apportionment”,

(b) in section 737(8)(c)(i) by substituting the following for the definition of “the appropriate amount in respect of the interest”:

“ ‘the appropriate amount in respect of the interest’ means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 21 if the management company or the trustee was the first buyer and carried on a trade to which section 749(1) applies;”,

(c) in section 738(7)(a) by substituting the following for the definition of “the appropriate amount in respect of the interest”:

“ ‘the appropriate amount in respect of the interest’ means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 21 if the undertaking for collective investment was the first buyer and carried on a trade to which section 749(1) applies;”,

and

(d) in section 739F—

(i) by deleting paragraph (b) of subsection (6),

(ii) by substituting the following for paragraph (a) of subsection (7):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”,

and

(iii) by inserting the following after subsection (8):

“(9) (a) Subject to paragraph (b), an investment undertaking aggrieved by an assessment made on that undertaking under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, an investment undertaking is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the investment undertaking makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”.

(5) Part 28 of the Act of 1997 is amended—

(a) in section 748—

(i) in subsection (3)(b) by deleting “in the opinion of the Revenue Commissioners”, and

(ii) by deleting subsection (4),

and

(b) in section 752(2)(a) by substituting the following for the definition of “shares of a class to which this section applies”:

“ ‘shares of a class to which this section applies’ means—

(i) shares of any class forming part of a company’s share capital, other than a class of fully-paid preference shares carrying only a right to dividends at a rate per cent of the nominal value of the shares that is fixed, and

(ii) in respect of which there are reasonable grounds for considering that the yield does not substantially exceed the yield generally obtainable on preference shares the prices of which are quoted on a stock exchange in the State.”.

(6) Part 29 of the Act of 1997 is amended—

(a) in section 766—

(i) in subsection (1A)(a) and (b) by substituting “as is just and reasonable” for “as appears to the inspector (or on appeal to the Appeal Commissioners) to be just and reasonable”,

(ii) in subsection (7)(a) by substituting “An authorised officer” for “The Revenue Commissioners”, and

(iii) by substituting the following for paragraph (b) of subsection (7):

“(b) Before disclosing information to any person under paragraph (a), an authorised officer shall give notice in writing to the company of—

- (i) the officer's intention to disclose information,
 - (ii) the information that the officer intends to disclose, and
 - (iii) the identity of the person whom the officer intends to consult,
- and shall give the company a period of 30 days after the date of the notice to show to his or her satisfaction that disclosure of such information to that person could prejudice the company's business.
- (c) Where, on the expiry of the period referred to in paragraph (b), it is not shown to the satisfaction of the authorised officer that disclosure could prejudice the company's business, the officer may disclose the information where he or she—
- (i) gives notice in writing to the company of his or her decision to disclose the information, and
 - (ii) allows the company a period of 30 days after the date of the notice to appeal the decision to the Appeal Commissioners before disclosing the information.
- (d) A company aggrieved by a decision made under paragraph (c) in respect of it may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”
- (b) in section 766A(6)(a) and (b) by substituting “as is just and reasonable” for “as appears to the inspector (or on appeal to the Appeal Commissioners) to be just and reasonable”, and
- (c) in section 768 by substituting the following for paragraph (b) of subsection (5):
- “(b) Before disclosing information to any expert under paragraph (a), the Revenue Commissioners shall give notice in writing to the person of—
- (i) their intention to disclose information to the expert,
 - (ii) the information that they intend to disclose, and
 - (iii) the identity of the expert whom they intend to consult,
- and shall give the person a period of 30 days after the date of the notice to show to their satisfaction that disclosure of such information to that expert could prejudice the person's trade.
- (c) Where, on the expiry of the period referred to in paragraph (b), it is not shown to the satisfaction of the Revenue Commissioners that disclosure of such information to that expert could prejudice the person's trade, they may disclose the information where they—
- (i) give the person notice in writing of their decision to so disclose, and
 - (ii) allow that person a period of 30 days after the date of the notice to appeal their decision to the Appeal Commissioners before disclosing the information.
- (d) A person aggrieved by a decision made under paragraph (c) in respect of that person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(7) Part 30 of the Act of 1997 is amended—

(a) in section 784E—

(i) by deleting paragraph (b) of subsection (5),

(ii) by substituting the following for paragraph (a) of subsection (6):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”

and

(iii) by inserting the following after subsection (6):

“(6A) (a) Subject to paragraph (b), a qualifying fund manager aggrieved by an assessment made on that fund manager under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, a qualifying fund manager is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the qualifying fund manager makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”

(b) in section 787 by substituting the following for subsections (15) and (16):

“(15) Relief shall not be given under this section in respect of a qualifying premium except on a claim made to and allowed by the inspector.

(16) A person aggrieved by a decision of the inspector in relation to a claim for relief by that person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(c) in section 787D by substituting the following for subsections (1) and (2):

“(1) Relief shall not be given under this Chapter in respect of a contribution to a PRSA except on a claim made to and allowed by the inspector.

(2) A person aggrieved by a decision of the inspector in relation to a claim for relief by that person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(d) in section 787S—

(i) by deleting paragraph (b) of subsection (6),

(ii) by substituting the following for paragraph (a) of subsection (7):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”,

and

(iii) by inserting the following after subsection (7):

“(7A) (a) Subject to paragraph (b), a person aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, a person is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the person makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”,

(e) in section 789(1) by substituting “by any determination of the inspector on any such question may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination” for “by any decision of the inspector on any such question may appeal within the prescribed time to the Appeal Commissioners”,

(f) in section 789(3) by deleting “, and in particular the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law”, and

(g) in section 790AA—

(i) by substituting the following for paragraph (a) of subsection (13):

“(a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of relevant tax.”,

and

(ii) by inserting the following after subsection (13):

“(13A) (a) Subject to paragraph (b), a person aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, an administrator of a relevant pension arrangement is required to make a return and account for relevant tax to the Collector-General, no appeal lies against an assessment until such time as the administrator makes the return and pays or has paid the amount of the relevant tax payable on the basis of that return.”.

(8) Part 33 of the Act of 1997 is amended—

(a) in section 806—

(i) in subsections (8) and (10)(b) by deleting “the individual shows in writing or otherwise to the satisfaction of the Revenue Commissioners”,

(ii) in subsections (8)(a) and (b) and (10)(b)(i) and (ii) by deleting “that” where it first appears in each of those provisions, and

(iii) by deleting subsection (9),

(b) in section 807A(7) by deleting “, (9)”,

(c) in section 807C(3) by substituting “as is justly and reasonably attributable” for “as appears to the Revenue Commissioners, or such officer as the Revenue Commissioners may appoint, to be justly and reasonably attributable”,

(d) in section 811—

(i) in subsection (1)(b) —

(I) by substituting “for the purposes of the adjudication” for “for the purposes of the hearing or rehearing”, and

(II) by deleting “or to a judge of the Circuit Court”,

(ii) in subsection (7) by substituting “may appeal the opinion to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that opinion” for “may, by notice in writing given to the Revenue Commissioners within 30 days of the date of the notice of opinion, appeal to the Appeal Commissioners”,

(iii) by substituting the following for subsection (8):

“(8) In adjudicating and determining an appeal, the Appeal Commissioners shall not enquire into any grounds of appeal other than those specified in subsection (7).”,

and

(iv) in subsection (9)(b) by deleting “to the rehearing of an appeal by a judge of the Circuit Court and”,

(e) in section 811C(7) by substituting “made to the Appeal Commissioners” for “made under Part 40”,

(f) in section 811D—

(i) in subsection (4)(b)(i) by substituting “, in accordance with section 949I, within the period of 30 days after the officer commences carrying out enquiries and section 959AJ” for “and subsections (5) to (8) of section 959Z”, and

(ii) in subsection (4)(b)(ii) by substituting “, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment and subsections (2) and (3) of section 949AK” for “and subsections (2) and (3) of section 959AF”,

(g) in section 817—

(i) in subsection (1) by deleting the definition of “appeal”, and

(ii) in subsection (7) by deleting “it is shown to the satisfaction of the inspector or, on the hearing or the rehearing of an appeal, to the satisfaction of the Appeal Commissioners or a judge of the Circuit Court, as the case may be, that”,

(h) in section 817P—

(i) in subsection (1) by substituting “Notwithstanding that an appealable matter (within the meaning of section 949A) has not been appealed, the Revenue Commissioners” for “The Revenue Commissioners”, and

(ii) in subsection (4) by substituting “be treated by the Appeal Commissioners as if it were an appeal made in accordance with section 949I” for “be heard by the Appeal Commissioners as if it were an appeal against an assessment to income tax”,

(i) in section 817S—

(i) in subsection (4)(b) by substituting “section 949AP” for “section 941(2) or 942(1)”, and

(ii) by substituting the following for subsection (5):

“(5) A person to whom a payment notice is sent shall pay the amount stated in the notice notwithstanding that that person may be entitled to appeal a determination referred to in subsection (3) to the High Court in accordance with section 949AP.”,

and

(j) in section 817T by substituting the following for subsection (7):

“(7) A scheme participant aggrieved by a determination made under subsection (6) in respect of that scheme participant may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”.

Consequential amendments to Parts 34 to 43 of Act of 1997

39. (1) Part 34 of the Act of 1997 is amended by substituting the following for section 824:

“Appeals

824. An individual aggrieved by a decision of an authorised officer on any question arising under the provisions of this Part that require that individual to satisfy the officer on such a question may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 2 months after the date of the notice of that decision.”.

(2) Part 35 of the Act of 1997 is amended—

(a) in section 829(3)(a) by deleting “including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law”, and

(b) in section 830—

(i) in subsection (3) by deleting “it is shown to the satisfaction of the Revenue Commissioners that”, and

(ii) by substituting the following for subsection (7):

“(7) Any claim for relief under this section shall be made in writing to the inspector not later than 6 years from the end of the accounting period to which it relates.

(8) An investing company aggrieved by a decision of the inspector in relation to a claim for relief by that company under subsection (7) may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”.

(3) Part 36 of the Act of 1997 is amended—

(a) in section 838(4)(d)(i) by substituting the following for the definition of “the appropriate amount in respect of the interest”:

“ ‘the appropriate amount in respect of the interest’ means the appropriate amount in respect of the interest which would be determined in accordance with Schedule 21 if the designated broker were the first buyer and carried on a trade to which section 749(1) applies;”.

and

(b) in section 840(6) by deleting paragraph (c).

(4) Part 37 of the Act of 1997 is amended—

(a) by deleting section 850,

(b) in section 856—

(i) in subsection (1) by deleting “Income”, and

(ii) by deleting subsection (3),

(c) in section 860 by deleting subsection (2),

(d) in section 864—

(i) in subsection (1) by substituting the following for subparagraph (ii) of paragraph (c) and all the words in that subsection appearing after that subparagraph down to and including “specifically provided,”:

“(ii) all matters and questions relating to any relief so measured,

in relation to which a right of appeal from a decision is, otherwise than by subsection (1A), not specifically provided,”.

and

(ii) by inserting the following after subsection (1):

“(1A) Any person aggrieved by a determination under subsection (1) on any claim, matter or question referred to in that subsection may, subject to Chapter 6 of Part 41A, appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”.

(e) in section 865(7) by substituting “the person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision” for “the provisions of section 949 shall apply to such decision as if it were a determination made on a matter referred to in section 864”, and

(f) in section 869 by deleting subsection (4).

(5) Part 38 of the Act of 1997 is amended—

(a) in section 897—

(i) by substituting the following for paragraph (c) of subsection (6):

“(c) where the inspector is dissatisfied with any such apportionment of expenses, he or she may, for the purposes of assessment, apportion the expenses, but an employer who is aggrieved by the apportionment of the inspector may appeal that apportionment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that apportionment.”,

and

(ii) by deleting subsection (7),

and

(b) in section 917G by substituting the following for subsections (7), (8) and (9):

“(7) A person aggrieved by a decision to refuse a grant of an approval (to that person) or to withdraw the grant of an approval (to that person), as the case may be, may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”.

(6) Part 39 of the Act of 1997 is amended in section 927 (in so far as that section continues to apply by virtue of section 129(5) of the Finance Act 2012)—

(a) in subsection (2) by deleting “, Part 40” and “, subject to any appeal against the assessment”, and

(b) by inserting the following after subsection (2):

“(3) A person aggrieved by an assessment made on the person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”.

(7) Part 41A of the Act of 1997 is amended—

(a) in section 959A—

(i) in the definition of “Acts” by inserting the following after paragraph (c):

“(ca) Part 18A,”,

(ii) by deleting the definition of “appeal”, and

(iii) by substituting the following for the definition of “determination of the appeal”:

“ ‘determination of the appeal’ means a determination made by the Appeal Commissioners in accordance with section 949AK, and includes the withdrawal, settlement, refusal or dismissal of an appeal under section 949G;”,

(b) in section 959F by substituting the following for subsection (4):

“(4) A person aggrieved by a decision of the Revenue Commissioners to not grant (to that person) relief under this section may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision and such an appeal shall be treated as an appeal against an assessment for the purpose of section 949AK.”,

(c) in section 959P by substituting the following for subsection (8):

“(8) A person aggrieved by a Revenue officer’s decision that the person’s expression of doubt is not genuine may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”,

(d) in section 959Z by deleting subsections (5) to (8),

(e) in section 959AA(2) by substituting the following for paragraph (b):

“(b) to give effect to—

(i) a determination of an appeal against an assessment,

(ii) a determination of an appeal, other than one made against an assessment, that affects the amount of tax charged by the assessment, or

(iii) an agreement within the meaning of section 949V.”,

(f) in section 959AE by inserting the following after subsection (4):

“(5) After an assessment has been made, it shall not be amended unless such amendment is authorised by the Acts.”,

(g) by substituting the following for section 959AF:

“Appeals in relation to assessments

959AF. (1) A person aggrieved by an assessment or an amended assessment, as the case may be, made on that person may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(2) Where a person is aggrieved by the making of an assessment or the amendment of an assessment (being an assessment made on that person) on the grounds that the person considers that the person who made the assessment or who amended the assessment was precluded from so doing—

(a) in the case of a chargeable person, by reason of section 959AA, 959AC or 959AD, or

(b) in the case of a person other than a chargeable person, by reason of section 959AB or 959AD,

those grounds may be stated in the notice of appeal for the purpose of section 949I(2)(d).

(3) In default of an appeal, in accordance with section 949I, being made by a person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive.”,

(h) by deleting subsection (2) of section 959AH,

(i) by substituting the following for section 959AJ:

“Appeals against time limits for making enquiries and taking actions

959AJ. (1) This subsection applies where—

- (a) a chargeable person is aggrieved by an enquiry made or an action taken by a Revenue officer under section 959Z for a chargeable period, after the expiry of the period referred to in subsection (3) of that section in respect of the chargeable period, on the grounds that the chargeable person considers that the Revenue officer is precluded from making the enquiry or taking the action by reason of that subsection, and
 - (b) an assessment has not been made or amended, as the case may be, in respect of the chargeable period on foot of the officer’s enquiry or action.
- (2) Where subsection (1) applies, the chargeable person may appeal to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on which the officer makes that enquiry or takes that action.
- (3) Where paragraph (a) of subsection (1) applies and an assessment has been made or amended, as the case may be, for the chargeable period referred to in that subsection on foot of a Revenue officer’s enquiry or action, a chargeable person may appeal to the Appeal Commissioners under and in accordance with section 959AF(2).
- (4) Where a chargeable person appeals to the Appeal Commissioners under subsection (2) —
- (a) any requirement that there be taken, by the chargeable person (pursuant to the officer’s enquiry or action) any action, shall be suspended, and
 - (b) no further action proposed to be taken by a Revenue officer (pursuant to the officer’s enquiry or action) shall be taken,
- pending the determination of the Appeal Commissioners on that officer’s right to make the enquiry or take the action.
- (5) Where, as a result of an appeal to the Appeal Commissioners under subsection (2), the Appeal Commissioners determine that a Revenue officer—
- (a) was precluded from making the enquiry or taking the action by reason of section 959Z(3), the chargeable person shall not be required to take any action pursuant to the officer’s enquiry or action and the officer shall be prohibited from pursuing his or her enquiry or action, or
 - (b) was not precluded from making the enquiry or taking the action by reason of section 959Z(3), the officer may continue with his or her enquiry.”,

and

(j) by substituting the following for section 959AK:

“Appeals against amended assessments and provisions concerning preliminary matters

959AK. (1) Subject to the other provisions of this Chapter, where an assessment is amended (not being an amendment made by reason

of the determination of an appeal), the person assessed may appeal against the assessment as so amended in all respects as if it were an assessment made on the date of the amendment and the notice of the assessment as so amended were a notice of the assessment, except that the person shall have no further right of appeal, in relation to matters other than additions to, deletions from, or alterations in the assessment, made by reason of the amendment, than the person would have had if the assessment had not been amended.

- (2) This subsection applies where a Revenue officer makes an assessment to give effect to a determination by the Appeal Commissioners of an appeal against a matter (in this section referred to as a 'preliminary matter'), not being an appeal against an assessment.
- (3) Where subsection (2) applies, no further right of appeal shall lie against the preliminary matter by means of an appeal against the assessment.
- (4) Subsection (3) shall not operate to preclude an appeal against the assessment where the person in relation to whom the assessment was made has grounds for the appeal other than grounds that relate solely to the preliminary matter.
- (5) For the purposes of subsections (3) and (4), the reference in subsection (2) to a determination by the Appeal Commissioners shall be construed as including a reference to—
- (a) a determination of an appeal by a court, and
 - (b) any of the means referred to in section 949G by which an appeal may be concluded.”.
- (8) Part 42 of the Act of 1997 is amended—
- (a) in section 960Q by substituting the following for subsection (4):

“(4) (a) Subject to paragraph (b), a person aggrieved by a determination made by a Revenue officer under subsection (2)(a) in respect of that person may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.

(b) Where a Revenue officer includes an amount of money determined under subsection (2)(a) in an assessment made on a person and the person appeals the determination under paragraph (a), no appeal shall lie against the assessment unless that person has grounds for appeal other than that determination.”.
 - (b) in section 960S by substituting the following for subsection (5):

“(5) A person aggrieved by a notice served on that person in accordance with subsection (3) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.”.
 - (c) in section 988 by substituting the following for paragraph (a) of subsection (2):

“(a) the person, if claiming to be not liable to send the notification referred to in subsection (1), may appeal to the Appeal Commissioners, in accordance with section 949I, within the period

of 14 days after the date of the notice and the determination of the Appeal Commissioners on the claim shall be final and conclusive;”,

(d) in section 989 by substituting the following for paragraph (a) of subsection (3):

“(a) the person, if claiming to be not liable to remit any tax for the income tax month to which the notice relates, may appeal to the Appeal Commissioners, in accordance with section 949I, within the period of 14 days after the date of that notice and the determination of the Appeal Commissioners on the claim shall be final and conclusive;”,

(e) in section 990 by substituting the following for paragraph (a) of subsection (2):

“(a) an employer aggrieved by a notice served under this section on that employer may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice;”,

(f) by deleting section 992,

(g) in section 997A by substituting the following for subsection (8):

“(8) A person aggrieved by a decision of the Revenue Commissioners in relation to a claim by that person for credit for tax deducted from emoluments, in so far as the decision was made by reference to any provision of this section, may appeal that decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.”,

and

(h) in sections 1004 and 1005 by substituting the following for subsection (5):

“(5) A person aggrieved by a decision of the Revenue Commissioners made under subsection (3) in respect of that person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that decision.”.

(9) Part 43 of the Act of 1997 is amended in section 1012—

(a) by substituting the following for subsection (1):

“(1) (a) The inspector may give notice of a determination made by him or her under section 1008(3) or 1010(6) to the partnership concerned by giving notice in writing to the precedent partner for the time being of the partnership.

(b) A partner (in the partnership concerned) aggrieved by a determination (made under a foregoing provision in respect of that partnership) may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,

and

(b) in subsection (2) by substituting “with the Appeal Commissioners on an appeal” for “on the hearing or on the rehearing of an appeal”.

Consequential amendments to Parts 44 to 48 of Act of 1997**40.** (1) Part 44 of the Act of 1997 is amended in section 1022—

- (a) by substituting the following for paragraphs (b) and (c) of subsection (2):

“(b) priority for the tax in bankruptcy or in the administration of the estate of a deceased person, and”,

- (b) by inserting the following after subsection (2):

“(2A) A person aggrieved by a notice given to that person under subsection (1) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.”,

and

- (c) in subsection (8)(a) by deleting “and the Appeal Commissioners”.

(2) Part 44A of the Act of 1997 is amended in section 1031G—

- (a) by substituting the following for paragraphs (b) and (c) of subsection (2):

“(b) priority for the tax in bankruptcy or in the administration of the estate of a deceased individual, and”,

- (b) by inserting the following after subsection (2):

“(2A) A person aggrieved by a notice given to that person under subsection (1) may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.”,

and

- (c) in subsection (8)(a) by deleting “and the Appeal Commissioners”.

(3) Part 45 of the Act of 1997 is amended—

- (a) in section 1037—

- (i) by inserting the following after subsection (2):

“(2A) A resident person or a non-resident person aggrieved by an assessment made on that person under subsection (1) may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”,

and

- (ii) by deleting subsection (3),

and

- (b) by substituting the following for section 1038—

“Merchanting profit

1038. (1) Where a non-resident person is chargeable to income tax in the name of any branch, manager, agent, factor or receiver in respect of any profits or gains arising from the sale of goods or produce manufactured or produced outside the State by the non-

resident person, the person in whose name the non-resident person is so chargeable may, if that person thinks fit, apply to the inspector to have the assessment to income tax in respect of those profits or gains made or amended, as the case may be, on the basis of the profits or gains that might reasonably be expected to have been earned or made by—

(a) a merchant, or

(b) where the goods are retailed by or on behalf of the manufacturer or producer, a retailer of the goods sold,

who had bought direct from the manufacturer or producer and, on proving the amount of the profits or gains on that basis to the satisfaction of the inspector, the inspector shall make or amend the assessment accordingly.

(2) A resident person or a non-resident person aggrieved by an assessment or an amended assessment made on that person under subsection (1) may appeal the assessment or amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”.

(4) Part 47 of the Act of 1997 is amended in section 1066 by substituting “the Acts (within the meaning of section 1077A)” for “the Tax Acts”.

(5) Part 48 of the Act of 1997 is amended in section 1094 by substituting the following for subsection (7):

“(7) (a) Subject to paragraph (b), a person aggrieved by a decision made in respect of that person to refuse an application for, or to rescind, as the case may be, a tax clearance certificate may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.

(b) No appeal lies under this subsection—

(i) in relation to any amount of tax or interest due under the Acts, or

(ii) until such time as any amount under the Acts that is due to be remitted or paid, and that is not in dispute, is remitted or paid.”.

Consequential amendments to certain Schedules to Act of 1997

41. (1) Schedule 2 to the Act of 1997 is amended—

(a) by deleting subparagraph (3) of paragraph 16,

(b) by substituting the following for paragraph 20:

“20. The provisions of the Income Tax Acts relating to—

(a) assessments to income tax, and

(b) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of income tax due under this Schedule.”,

and

(c) by inserting the following after paragraph 20:

“20A. (1) Subject to subparagraph (2), a chargeable person aggrieved by an assessment made on that person under this Schedule may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(2) Where, in accordance with this Schedule, a chargeable person is required to make a return and account for income tax to the Collector-General, no appeal lies against an assessment until such time as the chargeable person makes the return and pays or has paid the amount of the income tax payable on the basis of that return.”

(2) Schedule 11 to the Act of 1997 is amended by substituting the following for paragraph 6:

“6. A company aggrieved by a decision of the Revenue Commissioners made in respect of that company—

(a) to not approve of a scheme under paragraph 3(1),

(b) to not approve of an alteration to a scheme or the terms of a trust under paragraph 5(2), or

(c) to withdraw approval of a scheme under paragraph 5(1),

may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(3) Schedule 12 to the Act of 1997 is amended by substituting the following for paragraph 4:

“4. A founding company aggrieved by a decision of the Revenue Commissioners made in respect of that company—

(a) to not approve of a trust under paragraph 2(1),

(b) to not approve of an alteration to the terms of a trust under paragraph 3(2), or

(c) to withdraw approval of a trust under paragraph 3(1),

may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(4) Schedule 12A to the Act of 1997 is amended by substituting the following for paragraph 5:

“5. A grantor aggrieved by a decision of the Revenue Commissioners made in respect of that grantor—

(a) to not approve of a scheme under paragraph 2(1),

(b) to not approve of an alteration to a scheme under paragraph 4(2), or

(c) to withdraw approval of a scheme under paragraph 4(1),

may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision.”

(5) Schedule 12C to the Act of 1997 is amended by substituting the following for paragraph 5:

“5. A grantor aggrieved by a decision of the Revenue Commissioners made in respect of that grantor—

- (a) to not approve of a scheme under paragraph 2(1),
- (b) to not approve of an alteration to a scheme under paragraph 4(2), or
- (c) to withdraw approval of a scheme under paragraph 4(1),

may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of the decision.”.

(6) Schedule 18 to the Act of 1997 is amended—

- (a) by deleting clause (b) of paragraph 1(6),
- (b) by substituting the following for clause (a) of paragraph 1(7):

“(a) The provisions of the Income Tax Acts relating to—

- (i) assessments to income tax, and
- (ii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.”,

and

- (c) by inserting the following after subparagraph (8) of paragraph 1:

“(9) (a) Subject to clause (b), a collective investment undertaking aggrieved by an assessment made on that undertaking under this Schedule may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this Schedule, a collective investment undertaking is required to make a return and account for appropriate tax to the Collector-General, no appeal lies against an assessment until such time as the collective investment undertaking makes the return and pays or has paid the amount of the appropriate tax payable on the basis of that return.”.

(7) Schedule 18B to the Act of 1997 is amended by deleting paragraph 33.

(8) Schedule 19 to the Act of 1997 is amended by substituting the following for subparagraph (1) of paragraph 16:

“(1) An offshore fund, or a trustee or officer of the fund, as the case may be, aggrieved by—

- (a) a notice of a determination under paragraph 15(3), or
- (b) a notice given under paragraph 15(4),

as the case may be, given to that fund, trustee or officer may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice.”.

(9) Schedule 21 to the Act of 1997 is amended in paragraph 3(4) by deleting “in the opinion of the Appeal Commissioners”.

(10) Schedule 22 to the Act of 1997 is amended—

(a) in paragraph 2(1)(b) by substituting “it would be reasonable to consider that” for “in the opinion of the Appeal Commissioners”,

(b) in paragraph 2(2) by substituting “regard shall be had to” for “the Appeal Commissioners shall have regard to”,

(c) in paragraph 3(2) by deleting “in the opinion of the Appeal Commissioners”, and

(d) by substituting the following for subparagraph (5) of paragraph 3:

“(5) Where, under subparagraph (2), an amount is to be set aside for the payment of dividends on shares of any class, and dividends on shares of the class have been treated under this Schedule as paid to any extent out of profits accumulated before the relevant date, that treatment may be taken into account and the amount to be set aside reduced accordingly.”.

(11) Schedule 24 to the Act of 1997 is amended in subparagraph (2) of paragraph 12 by substituting “a person aggrieved by a decision of the inspector in relation to a claim made by that person may appeal the decision to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that decision” for all the words beginning with “and, if the inspector objects to any such claim” down to and including the last word in that subparagraph.

(12) Schedule 25B to the Act of 1997 is amended, in relation to the item at reference number 6 and the item at reference number 8, by deleting, in the paragraph (c) in column (3) opposite the item concerned, “it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that”.

(13) Schedule 25C to the Act of 1997 is amended in paragraph 5—

(a) by substituting the following for subparagraph (3):

“(3) An individual aggrieved by a determination issued to that individual under subparagraph (2) may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of that determination.”,

and

(b) by deleting subparagraph (4).

(14) Schedule 27 to the Act of 1997 is amended in Part 1 by deleting—

(a) the heading “Form of Declaration to be Made by Appeal Commissioners Acting in respect of Tax under Schedule D” and all the words of the declaration that follow and relate to that heading, and

(b) the heading “Form of Declaration to be Made by the Clerk to the Appeal Commissioners” and all the words of the declaration that follow and relate to that heading.

Enactments (other than Act of 1997) relating to Tax and Duties: consequential amendments

42. The enactments specified in *Schedule 2* are amended to the extent specified in that Schedule.

SCHEDULE 1

Declaration to be made by Appeal Commissioner

Section 12

I, A.B., do solemnly declare, that I will truly, faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me as an Appeal Commissioner appointed under the *Finance (Tax Appeals) Act 2015* and that I will judge and determine upon all matters and things which shall be brought before me under the enactments referred to in that Act without favour, affection, or malice; and that I will not disclose any information that comes into my possession in execution of the foregoing powers and authorities if the disclosure of such be prohibited by law (whether the *Finance (Tax Appeals) Act 2015*, the enactments referred to therein or otherwise).

SCHEDULE 2

Enactments (other than Act of 1997) Relating to Tax and Duties: Consequential Amendments

Section 42

PART 1

CONSEQUENTIAL AMENDMENTS TO STAMP DUTIES CONSOLIDATION ACT 1999

1. The Stamp Duties Consolidation Act 1999 is amended—

(a) in section 1(1) by inserting the following after the definition of “accountable person”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

(b) in section 8C by substituting the following for subsection (6):

“(6) An accountable person aggrieved by a decision of the Commissioners under subsection (5) that the accountable person’s expression of doubt is not genuine may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that decision.”,

(c) in section 21—

(i) by deleting subsections (1), (5), (6) and (7),

(ii) by substituting the following for subsection (2):

“(2) An accountable person aggrieved by an assessment to stamp duty made on that person may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of assessment.”,

(iii) in subsection (4)(a) by substituting “no appeal lies against the assessment until such time as—” for “no appeal may be made against that assessment unless within the time for bringing an appeal—”, and

(iv) by substituting the following for subsections (9) and (10):

“(9) In default of an appeal, in accordance with section 949I of the Taxes Consolidation Act 1997 or section 121, as the case may be, being made by an accountable person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive.

(10) An assessment that is otherwise final and conclusive shall not, for any purpose of this Act, be regarded as not final and conclusive or as ceasing to be final and conclusive by reason only of the fact that a Revenue officer has amended, or may amend, the assessment.”,

(d) in section 71 by substituting the following for subparagraph (iii) of paragraph (f):

“(iii) an accountable person aggrieved by an assessment made on that person under this paragraph may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of assessment,

(iv) in default of an appeal, in accordance with subparagraph (iii), being made by an accountable person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive.”,

(e) in section 121 by substituting the following for paragraph (b):

“(b) in the case of assets other than land, appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that decision.”,

and

(f) in section 126B—

(i) in subsection (1) by deleting the definition of “Appeal Commissioners”,

(ii) by substituting the following for subsection (5):

“(5) (a) Subject to paragraph (b), a relevant person aggrieved by an assessment made on that person under subsection (2) may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of assessment.

(b) No appeal lies against an assessment until such time as the relevant person—

(i) pays or has paid the duty in conformity with the assessment, and

(ii) where the assessment was made in default of the delivery of the statement referred to in subsection (2), delivers the statement.”,

(iii) by deleting subsection (6), and

(iv) by substituting the following for subsection (9):

“(9) In default of an appeal, in accordance with section 949I of the Taxes Consolidation Act 1997, being made by a relevant person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive and subsection (4) shall apply accordingly.”.

PART 2

CONSEQUENTIAL AMENDMENTS TO FINANCE ACT 2001

2. The Finance Act 2001 is amended—

(a) in section 96(1) by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

(b) in section 145—

(i) in subsection (3) by inserting “and who is aggrieved by the decision” after “the following matters”,

(ii) in subsection (3)(b) by substituting “section 133” for “section 133(2)”,

(iii) in subsection (3)(c) by substituting “that section;” for “that section.”,

(iv) by inserting the following after paragraph (c) of subsection (3):

“(d) the liability to vehicle registration tax or the repayment of vehicle registration tax.”,

and

(v) by inserting the following after subsection (12):

“(12A) Where a person is required to furnish a return or to pay an amount of vehicle registration tax for the purpose of any requirement of excise law, no appeal lies under this section until such time as the person furnishes the return and, as the case may be, pays or has paid the amount of vehicle registration tax.”,

(c) in section 146—

(i) in subsection (1) by substituting “and is aggrieved by any of the matters referred to in paragraphs (a) to (c), may, subject to subsection (3), in respect of the liability to excise duty concerned or the amount of that liability, or the amount of the repayment or the refusal to repay, appeal to the Appeal Commissioners in accordance with section 949I of the Taxes Consolidation Act 1997 within the period specified in subsection (2)” for all the words following paragraph (c) of that subsection,

(ii) in subsection (1A) by inserting “in accordance with section 949I of the Taxes Consolidation Act 1997 within the period specified in subsection (2)” after “Appeal Commissioners”,

(iii) by substituting the following for subsection (2):

“(2) The period specified for the purpose of making an appeal under this section is the period of 30 days after the date of—

- (a) the payment of excise duty in the case of an appeal under subsection (1)(a),
- (b) the notice of assessment or other notice calling for payment of the amount concerned in the case of an appeal under subsection (1)(b),
- (c) the repayment or the notice of the refusal to repay in the case of an appeal under subsection (1)(c), or
- (d) the notice of the determination, refusal or revocation concerned in the case of an appeal under subsection (1A).”

(iv) by substituting the following for subsection (3) —

“(3) Where a person is required to furnish a return or to pay an amount of excise duty for the purpose of any requirement of excise law, no appeal lies under this section until such time as the person furnishes the return and, as the case may be, pays or has paid the amount of excise duty.”

and

(v) by deleting subsections (4) and (5),

and

(d) by deleting section 147.

PART 3

CONSEQUENTIAL AMENDMENTS TO CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

3. The Capital Acquisitions Tax Consolidation Act 2003 is amended—

(a) in section 2(1) by inserting the following after the definition of “accountable person”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”

(b) in section 30—

(i) in subsection (6) by substituting “subject to the determination of an appeal made under subsection (9), the date so determined by the Commissioners” for “subject to any decision on appeal pursuant to subsection (9), the date so determined”, and

(ii) by substituting the following for subsection (9):

“(9) An accountable person aggrieved by a determination of the Commissioners made under subsection (6) in respect of that person may appeal the determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997,

within the period of 30 days after the date of the notice of that determination.”,

(c) in section 46A(5) by substituting “appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that decision.” for “, by giving notice in writing to the Commissioners within the period of 30 days after the notification of the said decision, require the matter to be referred to the Appeal Commissioners.”,

(d) in section 53—

(i) in subsection (4), by substituting “appeal to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of the amount of that surcharge,” for “, within 30 days of the notification to that person of the amount of such surcharge, appeal to the Appeal Commissioners”, and

(ii) by deleting subsection (5),

(e) in section 67—

(i) by deleting subsections (1), (4), (5), (6) and (7),

(ii) by substituting the following for subsection (2):

“(2) (a) Subject to the other provisions of this Act, a person aggrieved by an assessment made by the Commissioners on that person may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of assessment.

(b) In default of an appeal, in accordance with paragraph (a) or section 66, as the case may be, being made by a person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive.

(c) An assessment that is otherwise final and conclusive shall not, for any purpose of this Act, be regarded as not final and conclusive or as ceasing to be final and conclusive by reason only of the fact that a Revenue officer has amended, or may amend, the assessment.”,

and

(iii) by substituting the following for paragraphs (b) and (c) of subsection (8):

“(b) A person on whom notice of a decision has been served and who is aggrieved by the decision may appeal that decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within 30 days after the date of the notice of that decision.”,

and

(f) by substituting the following for subsection (4) of section 80:

“(4) (a) The Commissioners shall serve on an accountable person a notice in writing of the decision referred to in subsection (3).

- (b) An accountable person aggrieved by such a decision of the Commissioners, notice of which is served on that person, may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within 30 days after the date of the notice of that decision.”.

PART 4

CONSEQUENTIAL AMENDMENTS TO VALUE-ADDED TAX CONSOLIDATION ACT 2010

4. The Value-Added Tax Consolidation Act 2010 is amended—

- (a) in section 2 by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

- (b) in section 51—

- (i) by substituting the following for subsection (6):

“(6) A person aggrieved by a determination under subsection (1) made pursuant to an application by him or her may appeal the determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that determination in accordance with subsection (5)(a).”,

and

- (ii) in subsection (7) by substituting “under subsection (1) or (2), and who is aggrieved by that determination, may appeal that determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the publication of that determination in *Iris Oifigiúil* in accordance with subsection (5)(b).” for “under subsection (1) or (2), may, on giving notice in writing to the Revenue Commissioners within the period of 21 days beginning on the date of the publication of the determination in *Iris Oifigiúil*, appeal to the Appeal Commissioners.”,

- (c) in section 81(7) by substituting “may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that decision.” for “may, by giving notice in writing to the Revenue Commissioners within the period of 21 days after the notification of the decision, require the matter to be referred to the Appeal Commissioners.”,

- (d) in section 109(2) by substituting “may appeal to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice referred to in subsection (1), the requirement to give security under that subsection.” for “may, on giving notice to the Revenue Commissioners within the period of 21 days from the date of the service of the notice, appeal the requirement of giving any security under subsection (1) to the Appeal Commissioners.”,

(e) by substituting the following for paragraph (a) of section 110(2):

“(a) a person who considers that he or she is not an accountable person may appeal to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice, for a determination on whether he or she is an accountable person;”,

(f) in section 111—

(i) by substituting the following for subsections (2) and (3):

“(2) Where a notice of assessment is served on a person under subsection (1), the following paragraphs shall apply:

(a) subject to paragraph (b), a person aggrieved by an assessment made on that person under subsection (1) may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of assessment;

(b) where, in accordance with section 76 or 77, a person on whom a notice of assessment is served is required to furnish a return and remit the amount of tax payable to the Collector-General, no appeal lies against the assessment until such time as the person—

(i) furnishes the return in respect of each taxable period included in the period referred to in subsection (1), and

(ii) pays or has paid the amount of tax payable on the basis of that return;

(c) in default of an appeal, in accordance with paragraph (a), being made by a person on whom a notice of assessment has been served—

(i) the assessment shall be final and conclusive, and

(ii) the amount due shall be due and payable as if the tax were tax that the person referred to in paragraph (b) is liable to pay for the taxable period during which the period of 14 days after the date of the service of the notice of assessment expires;

and

(d) where an appeal is determined by agreement or otherwise, the amount due as determined in relation to the appeal shall be due and payable as if the tax were tax that the person referred to in paragraph (a) is liable to pay for the taxable period during which the appeal is so determined.”.

(3) Interest shall not be chargeable in accordance with section 114 from the date on which an assessment is made where—

(a) the amount that was paid in accordance with subsection (2)(b)(ii) is greater than 80 per cent of the amount found to be due on determination of the appeal, and

(b) the balance of the amount found to be due on determination of the appeal is paid within 30 days of such determination.”.

and

(ii) by inserting the following after subsection (3):

“(4) An assessment that is otherwise final and conclusive shall not, for any purpose of this Act, be regarded as not final and conclusive or as ceasing to be final and conclusive by reason only of the fact that a Revenue officer has amended, or may amend, the assessment.”,

and

(g) in section 119—

(i) in subsection (1) by substituting “may appeal the determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that determination.” for “may, on giving notice in writing to the Revenue Commissioners within 21 days after the notification, to the person so aggrieved of the determination, appeal to the Appeal Commissioners.”,

(ii) by substituting the following for subsection (2):

“(2) A person aggrieved by a decision of the Revenue Commissioners that the person is not an accountable person may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that decision.”,

and

(iii) by deleting subsections (4), (5), (6) and (7).

PART 5

CONSEQUENTIAL AMENDMENTS TO FINANCE (LOCAL PROPERTY TAX) ACT 2012

5. The Finance (Local Property Tax) Act 2012 is amended—

(a) in section 2 by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

(b) in section 26(4) by substituting “the decision to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that decision” for “to the Appeal Commissioners against the decision and the appeal shall be heard as if it were an appeal against a Revenue assessment and Part 9 shall apply accordingly”,

(c) in section 34—

(i) in subsection (3) by substituting “the determination to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that determination” for “to the Appeal Commissioners against that determination by giving written notice to the Revenue Commissioners

within 14 days after the date on which the determination was notified to him or her”, and

(ii) by deleting subsection (4),

(d) in section 59—

(i) by substituting the following for subsection (1):

“(1) Subject to subsection (2), a person aggrieved by a Revenue assessment made on that person may appeal the assessment to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of assessment.”,

(ii) by substituting the following for subsection (3):

“(3) In default of an appeal, in accordance with subsection (1), being made by a person to whom a notice of assessment has been given, the assessment made on the person shall be final and conclusive.”,

and

(iii) by deleting subsection (5),

(e) by deleting Part 9,

(f) in section 135—

(i) in subsection (2) by substituting “, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of that determination” for “by giving written notice to the Revenue Commissioners within 14 days of the determination being made and stating the grounds for the appeal in the notice”, and

(ii) by deleting subsection (3),

and

(g) in section 142—

(i) by substituting the following for subsections (1) and (2):

“(1) Subsection (2) shall apply where—

(a) a liable person is aggrieved by an enquiry made or an action taken by a Revenue officer under section 141 for a chargeable period, after the expiry of the period referred to in subsection (2) of that section in respect of the chargeable period, on the grounds that the liable person considers that the Revenue officer is precluded from so doing by reason of that subsection, and

(b) an assessment has not been made or amended, as the case may be, in respect of the year on foot of the officer’s enquiry or action.

(2) Where subsection (1) applies, the liable person may appeal to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date on which the officer makes that enquiry or takes that action.”,

and

(ii) by inserting the following after subsection (2):

“(2A) Where subsection (1)(a) applies and an assessment has been made or amended, as the case may be, on foot of a Revenue officer’s enquiry or action, a chargeable person may appeal to the Appeal Commissioners under and in accordance with section 59(1).”.

PART 6

CONSEQUENTIAL AMENDMENTS TO CUSTOMS ACT 2015

6. The Customs Act 2015 is amended—

(a) in section 44 by substituting the following for the definition of “Appeal Commissioners”:

“ ‘Appeal Commissioner’ has the meaning given to it by *section 2* of the *Finance (Tax Appeals) Act 2015*;”,

(b) in section 46(5) by substituting “section 949AJ of the Taxes Consolidation Act 1997” for “section 47”,

(c) by substituting the following for section 47:

“**47.** A person aggrieved by a determination of the Commissioners made under section 46 may appeal the determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that determination.”,

and

(d) in section 49(1) by deleting “or section 47”.



Number 59 of 2015

FINANCE (TAX APPEALS) ACT 2015

REVISED

Updated to 18 December 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Finance (No. 2) Act 2023 (39/2023)*
- *Energy (Windfall Gains in the Energy Sector) (Temporary Solidarity Contribution) Act 2023 (23/2023)*
- *Finance Act 2022 (44/2022)*
- *Finance (Tax Appeals and Prospectus Regulation) Act 2019 (39/2019)*

All Acts up to and including *Finance (No. 2) Act 2023 (39/2023)*, enacted 18 December 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Finance (Tax Appeals) Act 2015 (Establishment Day) Order 2016* (S.I. No. 111 of 2016)
- *Finance (Tax Appeals) Act 2015 (Commencement) Order 2016* (S.I. No. 110 of 2016)

All statutory instruments up to and including *Broadcasting Act 2009 (Section 21) Levy Order 2023* (S.I. No. 657 of 2023), made 18 December 2023, were considered in the preparation of this revision.