

PART I Interpretation

Interpretation. SDMA1891 s27 (part); SA1891 s32, s33(1); s54, s86, s91, s98(1); s108 and s122(1); FA1898 s6 (part); FA1997 s115 and s118 1.—(1) In this Act, unless the context otherwise requires—

“accountable person” means—

(a) the person referred to in column (2) of the Table to this definition in respect of the corresponding instruments set out in column (1) of that Table by reference to the appropriate heading in Schedule 1,

(b) in the case of an instrument which operates, or is deemed to operate, as a voluntary disposition inter vivos under section 30 or 54, the parties to such instrument,

(c) in the case of any other instrument, the parties to that instrument,

(d) notwithstanding paragraphs (a), (b) and (c), in the case of any person who would be an accountable person if alive, the accountable person shall be the personal representative of such person:

TABLE

Instrument Heading specified in Accountable person Schedule 1 (1) (2) CONVEYANCE or TRANSFER on sale of any stocks or marketable securities. The purchaser or transferee. CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance. The purchaser or transferee. DUPLICATE or COUNTERPART of any instrument chargeable with any duty. Any of the persons specified in this column, as appropriate. LEASE. The lessee. MORTGAGE, BOND, DEBENTURE, COVENANT (except a marketable security) which is a security for the payment or repayment of money which is a charge or incumbrance on property situated in the State other than shares in stocks or funds of the Government or the Oireachtas. The mortgagee or obligee; in the case of a transfer, the transferee.

“bill of exchange” includes draft, order, cheque, and letter of credit, and any document or writing (except a bank note) entitling or purporting to entitle any person, whether named in the bill or not, to payment by any other person of, or to draw on any other person for, any sum of money;

“Commissioners” means Revenue Commissioners;

“conveyance on sale” includes every instrument, and every decree or order (including a decree or order for, or having the effect of an order for, foreclosure) of any court or of any commissioners, whereby any property, or any estate or interest in any property, on the sale or compulsory acquisition of that property or that estate or that interest is transferred to or vested in a purchaser, or any other person on such purchaser's behalf or by such purchaser's direction;

“die” includes any plate, type, tool, implement, apparatus, appliance, device, process and any other means, used by or under the direction of the Commissioners for expressing or denoting any duty, or rate of

duty or the fact that any duty or rate of duty or penalty has been paid or that an instrument is duly stamped or is not chargeable with any duty or for denoting any fee, and also any part or combination of any such plate, type, tool, implement, apparatus, appliance, device, process and any such other means;

“equitable mortgage” means an agreement or memorandum, under hand only, relating to the deposit of any title deeds or instruments constituting or being evidence of the title to any property (other than stock or marketable security), or creating a charge on such property;

“executed” and “execution”, in relation to instruments not under seal, mean signed and signature;

“forge” includes counterfeit and “forged” shall be construed accordingly;

“impressed” includes any method of applying, producing or indicating a stamp on instruments or material by means of a die;

“instrument” includes every written document;

“marketable security” means a security of such a description as to be capable of being sold in any stock market in the State;

“material” includes every sort of material on which words or figures can be expressed;

“Minister” means the Minister for Finance;

“money” includes all sums expressed in the currency of the State or in any foreign currency;

“mortgage” means a security by means of mortgage for the payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due on an account current, together with any sum already advanced or due, or without, as the case may be, and includes—

(a) further charge, and heritable bond, disposition, assignation, or tack in security, of or affecting any lands, estate, or property, real or personal, heritable or movable,

(b) any conveyance of any lands, estate, or property in trust to be sold or otherwise converted into money, intended only as a security, and redeemable before the sale or other disposal of the lands, estate or property, either by express stipulation or otherwise, except where the conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified who accept the provision made for payment of their debts, in full satisfaction of those debts, or who exceed 5 in number,

(c) any defeazance, letter of reversion, declaration, or other deed or writing for defeating or making redeemable or explaining or qualifying any conveyance, transfer, disposition or assignation of any lands, estate, or property, apparently absolute, but intended only as a security,

(d) any agreement (other than an agreement chargeable with duty as an equitable mortgage), contract, or

bond accompanied with a deposit of title deeds for making a mortgage, or any other security or conveyance already referred to of any lands, estate, or property comprised in the title deeds, or for pledging or charging the same as a security, and

(e) any deed operating as a mortgage of any stock or marketable security;

“policy of insurance” includes every writing whereby any contract of insurance is made or agreed to be made, or is evidenced, and “insurance” includes assurance;

“policy of life insurance” means a policy of insurance on any life or lives or on any event or contingency relating to or depending on any life or lives except a policy of insurance for any payment agreed to be made on the death of any person only from accident or violence or otherwise than from a natural cause;

“promissory note” includes any document or writing (except a bank note) containing a promise to pay any sum of money;

“residential property”, in relation to a sale or lease, means—

(a) a building or part of a building which, at the date of the instrument of conveyance or lease—

(i) was used or was suitable for use as a dwelling,

(ii) was in the course of being constructed or adapted for use as a dwelling, or

(iii) had been constructed or adapted for use as a dwelling and had not since such construction or adaptation been adapted for any other use.

and

(b) the curtilage of the residential property up to an area (exclusive of the site of the residential property) of one acre;

but where—

(I) in the year ending on the 31st day of December immediately prior to the date of that instrument of conveyance or lease—

(A) a rate was made by a rating authority as regards any hereditament to which section 3 of the Local Government (Financial Provisions) Act, 1978 , did not apply,

(B) a rate was made by a rating authority, and an allowance made under that section of that Act, as regards any hereditament which was at the time the rate was made a mixed hereditament, secondary school or community hall of the Local Government (Financial Provisions) Act, 1978), or

(C) a hereditament was described as exempt, or partially exempt, from rating in the valuation lists (being the valuation lists referred to in the Valuation Acts),

then the whole or an appropriate part of that hereditament as is referable to ordinary use other than as a dwelling at the date of that instrument of conveyance or lease or, where appropriate, when last ordinarily used, shall not be residential property, in relation to that sale or lease,

or

(II) the area of the curtilage (exclusive of the site of the residential property) exceeds one acre, then the part which shall be residential property shall be taken to be the part which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residential property;

“stamp” means—

(a) any stamp, image, type, mark, seal, impression, imprint or perforation impressed by means of a die,

(b) any receipt in whatever form issued by or under the direction of the Commissioners, or

(c) an adhesive stamp issued by or under the direction of the Commissioners,

for denoting any duty or fee;

“stamped”, in relation to instruments and material, applies as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed to them;

“stock” includes any share in any stocks or funds transferable at the Bank of England or at the Bank of Ireland and any share in the stocks or funds of any foreign state or government, or in the capital stock or funded debt of any county council, corporation, company, or society in the State, or of any foreign corporation, company, or society;

“stock certificate to bearer” includes every stock certificate to bearer issued under any Act authorising the creation of debenture stock, county stock, corporation stock, municipal stock, or funded debt, by whatever name known.

(2) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended or extended by any subsequent enactment.

(3) In this Act a reference to a Part, Chapter, section or Schedule is to a Part, Chapter or section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(4) In this Act a reference to a subsection, paragraph, subparagraph, clause or subclause is to the subsection, paragraph, subparagraph, clause or subclause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.