

NOTES FOR GUIDANCE

STAMP DUTIES CONSOLIDATION ACT 1999

(as amended by subsequent Acts up to and including
the Finance Act (No.2) 2023)

Part 1 - Interpretation



These notes are for guidance only and do not purport to be a definitive legal interpretation of the provisions of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999) as amended by subsequent Acts up to and including the Finance Act (No.2) 2023.

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STAMP DUTIES CONSOLIDATION ACT 1999

PART 1 INTERPRETATION

Overview

This Part defines certain terms and sets out rules for the construction of certain references, used in the Stamp Duties Consolidation Act 1999.

Section 1 Interpretation

This section provides for the interpretation of terms and expressions used in the Stamp Duties Consolidation Act 1999. It also sets out rules for the construction of certain references used in that Act. The various definitions and rules apply unless the context requires otherwise. Readers should also be aware that section 18 of the Interpretation Act 2005, contains general rules for the construction of statutes which apply unless the contrary intention appears. (I) – (4)

The definitions of “accountable person”, “appeal commissioner”, “approved person”, “authorised person”, “civil partner”, “civil partnership”, “Commissioners”, “conveyance on sale”, “die”, “electronic return”, “executed”, “execution”, “e-stamping system”, “filer”, “forge”, “forged”, “impressed”, “instrument”, “material”, “Minister”, “money”, “paper return”, “policy of insurance”, “policy of life insurance”, “Revenue officer”, “stamp”, “stamp certificate”, “stamped”, “stock”, “stock certificate to bearer” and “Teagasc” are self-explanatory. (I)

The definition of “bill of exchange” means a draft, an order or a cheque (drawn on an account in the State). A “bill of exchange” as defined by the Bill of Exchange Act 1882 is “an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer”. “Cheque” is also defined in that Act as a “bill of exchange (within the meaning of the 1882 Act) drawn on a banker payable on demand”.

A “child” includes a person, being a transferee or lessee, who, prior to the date of execution of the instrument in respect of which relief from duty is claimed, has resided with, was under the care of and was maintained at the expense of the transferor or lessor throughout—

- a period of 5 years, or
- periods which together comprised of at least 5 years,

prior to such person reaching 18 years of age but only if the claim for relief is not based on the uncorroborated testimony of one witness.

In addition, section 61 of the Adoption Act provides that, for the purposes of stamp duty chargeable on a conveyance or transfer of land, an adopted person will be regarded as the child of the adopter or adopters and not the child of any other person.

A “lineal descendent” includes a person who, as transferee, is a child within the meaning of the definition of “child” as outlined in the previous paragraph.

A “marketable security” is defined as—

- a security (e.g. written evidence of a debt),
- which is *capable* of being dealt in (i.e. bought and sold) on the Irish Stock Exchange (i.e. on the Official List, the Development Companies Market, the Exploration Securities Market or the ITEQ Market).

This definition, therefore, encompasses both securities which are in fact dealt in, and securities which could be dealt in, on the exchange. The securities of private companies, because they may not be dealt in on the exchange, do not fall within this definition (but see definition of “stock”).

Subsection (1A) provides that the following persons will not be accountable persons for the purposes of this Act: (1A)

- (a) the National Treasury Management Agency;
- (b) the Minister in relation to a function exercised by the Minister which is capable of being delegated to the National Treasury Management Agency under section 5 of the National Treasury Management Agency Act 1990.

This section also sets out how references in the Act to enactments, Parts, Chapters, sections, Schedules, subsections, paragraphs, subparagraphs, clauses or subclauses are to be construed. (2) – (4)

Readers should also be aware that the Interpretation Act 2005, contains definitions which apply unless the context otherwise requires. The definitions contained in that Act and the sections, etc., in which they are to be found in this Act are set out in **Appendix 1**.