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**AN BILLE UM CHÁIN FHEIRME, 1985**  
**FARM TAX BILL, 1985**

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*Mar a tionscnaíodh*  
*As initiated*

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Interpretation.
2. Adjusted acre.
3. Taxable farm.
4. Classification of agricultural land holdings.
5. Display of classification lists.
6. Appeals in relation to classification lists.
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## Section

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### THE FARM TAX TRIBUNAL

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#### ACTS REFERRED TO

Capital Acquisitions Tax Act, 1976	1976, No. 8
City and County Management (Amendment) Act, 1955	1955, No. 12
Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Acts, 1956 and 1958	
Companies Act, 1963	1963, No. 33
European Assembly Elections Act, 1977	1977, No. 30
Finance (Miscellaneous Provisions) Act, 1968	1968, No. 7
Income Tax Acts	
Preferential Payments in Bankruptcy (Ireland) Act, 1889	1889, c. 60
Public Offices (Fees) Act, 1879	1879, c. 58
Registration of Title Act, 1964	1964, No. 16
State Property Act, 1954	1954, No. 25
Superannuation Acts, 1834 to 1963	
Valuation Acts	





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AN BILLE UM CHÁIN FHEIRME, 1985  
FARM TAX BILL, 1985

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# BILL

*entitled*

- 5 AN ACT TO PROVIDE FOR A TAX, TO BE KNOWN AS FARM  
TAX, ON CERTAIN AGRICULTURAL LAND AND TO  
PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

- 10 “adjusted acre” and “adjusted acreage” have the meanings respectively  
assigned to them by *section 2* of this Act;

“agriculture” means husbandry and cognate words shall be construed  
accordingly;

- 15 “agricultural land” means land wholly or mainly used, or reasonably  
capable of being wholly or mainly used, for the purposes of husbandry,  
but does not include land developed as commercial woodland or for  
use wholly or mainly for sport;

“agricultural land holding” means the aggregate of the land in the  
occupation of the same person or persons;

- 20 “classification list” has the meaning assigned to it by *section 4* of this  
Act;

“the Commissioner” means the holder of the office of Farm Tax  
Commissioner established by *section 14* of this Act;

“farm tax” means the tax chargeable by virtue of *section 9* of this Act;

- 25 “functions” includes powers and duties and references to the perform-  
ance of a function include references to the exercise of a power and  
the carrying out of a duty;

“interest”, in relation to farm tax, means interest payable under  
*section 11 (7)* of this Act in respect of farm tax;

- 30 “local authority” means the council of a county, the corporation of a  
county or other borough or the council of an urban district;

“the Minister” means the Minister for the Environment;



"occupier", in relation to land, an agricultural land holding, or part of such a holding, or a taxable farm, means the person entitled to the immediate use or enjoyment of the land, the holding or the farm, as may be appropriate, whether actually used or enjoyed or not, and—

- (a) where a person is in possession of land or such a holding or farm in the capacity of an employee or agent of, or a trustee or caretaker for, another person, that other person shall be deemed, for the purposes of this Act, to be entitled to the immediate use or enjoyment of the land, holding or farm, and 5 10
- (b) where a person is in possession of land or such a holding or farm as a personal representative of a deceased occupier thereof or is in adverse possession of land or such a holding or farm, he shall be deemed, for the purposes of this Act, to be entitled to the immediate use or enjoyment of the land, holding or farm, and 15
- (c) where a person is in possession of land or such a holding or farm under a letting in conacre or for the purposes of agistment or for temporary depastureage, the person from whom he holds it shall be deemed, for the purposes of this Act, to be entitled to the immediate use or enjoyment of the land, holding or farm: 20

Provided, however, that where the land, holding or farm is subject to a discretionary trust (within the meaning of the Capital Acquisitions Tax Act, 1976, as amended) and no person is in possession of it as of right, the trustees of the trust shall be deemed, for the purposes of this Act, to be entitled to the immediate use or enjoyment of the land, holding or farm, 25

and cognate words shall be construed accordingly;

"prescribed" means prescribed by regulations made by the Minister; 30

"prescribed by the Minister for Finance" means prescribed by regulations made by the Minister for Finance;

"taxable farm" has the meaning assigned to it by *section 3* of this Act;

"revision list" has the meaning assigned to it by *section 7 (5)* of this Act; 35

"the Tribunal" means the Farm Tax Tribunal established by *section 8* of this Act.

- (2) (a) Subject to *paragraph (b)* of this subsection a person connected with another person shall be deemed, for the purposes of this Act, to be the same person as that other person. 40

(b) Where—

- (i) a person who is the occupier of an agricultural land holding is a relative (within the meaning of *section 16 (3)* of the Finance (Miscellaneous Provisions) Act, 1968, as modified by *paragraph (c)* of this subsection) of a person who is the occupier of another agricultural land holding, and 45

- (ii) each holding is farmed and managed by its occupier separately from the other holding, 50



the first-mentioned person shall be deemed, for the purposes of this Act, not to be connected with the second-mentioned person.

- 5 (c) Any question whether a person is connected with another person shall, for the purposes of this Act, be determined in accordance with section 16 (3) of the Finance (Miscellaneous Provisions) Act, 1968, subject to the modification that "relative" in the said section 16 (3) shall be construed as including a direct descendant of a brother or sister.

10 2.—(1) In this Act, subject to *subsection (2)* of this section, "adjusted acre" means any area of agricultural land (whether equal to or greater than one acre) the estimated capacity of which for agricultural production is equivalent to the capacity for such production of one acre of land capable of the estimated highest such production in the State and "adjusted acreage", in relation to an agricultural land holding, means the total area of agricultural land of that holding expressed in adjusted acres. Adjusted acre.

(2) In estimating, for the purposes of this section, the capacity for agricultural production of land in any place—

20 (a) regard shall be had to—

- (i) the range of uses to which the land can be put for the purposes of agricultural production,
- (ii) the adequacy of the means of access to the land, and
- 25 (iii) the following, and any other natural phenomena affecting the capacity of the land for agricultural production:
  - (I) the nature and quality of the soil,
  - (II) the location and climate of the place,
  - 30 (III) whether the land is flat or sloping and, if it is sloping, the direction and the degree of the slope,
  - (IV) whether the land is sheltered and whether the land is overlooked by hills or mountains,
  - (V) the structure of the agricultural land holding of which the land forms part,
  - 35 (VI) the natural drainage of the land and any arterial, local or other drainage affecting the land and provided by a State authority (within the meaning of the State Property Act, 1954) or a local authority,
  - 40 (VII) the adequacy of the natural water supply to the land, and
  - (VIII) the accessibility of the land to, and its capacity to support, farm machinery and farm stock and to resist damage to it by farm machinery and farm stock,
  - 45

(b) it shall be assumed that the land has been, is being and will continue to be, farmed, and that the land and the business



of farming the land, has been, is being, and will continue to be, managed reasonably and reasonably efficiently, and

(c) (i) if investment in the land is at a level that is higher than a reasonable level for land generally or falls short of such a level, any capacity of the land for agricultural production, or any lack of such capacity in the land, that is attributable to the part of such investment that is higher than such reasonable level as aforesaid, or, as the case may be, to the short-fall shall be disregarded. 5 10

(ii) In *subparagraph (i)* of this paragraph "investment", in relation to land, means investment in the land in respect of—

(I) the application of fertilisers or other substances for improving the land for agricultural use, 15

(II) the levelling and general reclamation of the land,

(III) the clearance of boulders, stones, trees, weeds, gorse or other unwanted vegetation from the land,

(IV) the provision and maintenance of a supply of water and of drains and ditches for the land, 20

(V) the cutting of hedges on, and the provision and maintenance of shelter for, the land,

(VI) the construction and maintenance of farm buildings, yards, slurry or silage pits and roadways on the land, or 25

(VII) the provision of machines (including farm machinery) for use on the land,

or in respect of other similar matters.

Taxable farm.

3.—(1) In this Act, subject to the provisions of this section, a "taxable farm" means an agricultural land holding which is listed in a classification list or classification lists and the adjusted acreage of which is not less than 20 adjusted acres. 30

(2) Where—

(a) an agricultural land holding (referred to subsequently in this subsection as the first-mentioned holding) listed in a classification list or classification lists is occupied by two or more persons, whether as joint tenants, tenants in common or otherwise, and 35

(b) one of the persons (referred to subsequently in this subsection as the first-mentioned person) is the sole occupier or an occupier as a joint tenant, tenant in common or otherwise with one or more other persons (one, at least, of whom is not the same person as the person or one of the persons who is the other occupier or one of the other occupiers of the first-mentioned holding) of another agricultural land holding listed in a classification list or classification lists, 40 45



the local authority or local authorities in whose functional area or functional areas the first-mentioned holding is situated shall apportion the adjusted acreage of the first-mentioned holding between the persons occupying it in such manner as the authority or authorities aforesaid considers or consider just and shall, within 14 days of such apportionment, send by post or give to the occupiers of the first-mentioned holding notice in writing, and particulars in writing, of the apportionment and, in relation to the first year in which farm tax in respect of the first-mentioned holding is demanded after the receipt by those occupiers of such notice and each subsequent year—

- (i) the adjusted acreage so apportioned to the first-mentioned person shall be added to the adjusted acreage, apportioned under this section where appropriate, of the other holding of the first-mentioned person,
- (ii) the total such acreage referred to in *paragraph (i)* of this subsection shall be deemed, for the purposes of this Act, to constitute one agricultural land holding and to have an adjusted acreage equal to the sum of the adjusted acreages aforesaid, and
- (iii) the adjusted acreage of the first-mentioned holding so apportioned to the first-mentioned person shall be deemed, for the purposes of this Act, not to be part of the adjusted acreage of the first-mentioned holding.

(3) An area larger than 20 adjusted acres may be prescribed, by the Minister for Finance, for the purposes of *subsection (1)* of this section and *subsection (3)* of *section 4* of this Act for any year during the period from the passing of this Act to the end of the year immediately following that in which the compilation of the classification lists is completed, and those subsections shall, for any year for which an area stands so prescribed as aforesaid, have effect as if the area standing so prescribed were substituted for the area for the time being specified in those subsections.

4.—(1) The Commissioner shall compile a list (to be known as a classification list) in such form as may be determined by the Minister for Finance in respect of the functional area of each local authority in the State of every agricultural land holding in that functional area the adjusted acreage of which is determined under *subsection 3* of this section and (as respects such holdings parts of which are situated in the functional area of more than one local authority) of the part in that functional area.

Classification of  
agricultural land  
holdings.

(2) Each classification list shall be signed by the Commissioner and shall state the name, address and description of any owner and occupier, the acreage, the adjusted acreage (as determined by the Commissioner under this section) and the location, of each agricultural land holding, or part of such a holding, listed in the list.

(3) The Commissioner shall determine the adjusted acreage of—

- (a) every agricultural land holding the adjusted acreage of which is not less than 20 adjusted acres,
- (b) every agricultural land holding the adjusted acreage of which is less than 20 acres but is such that, if it were added to the adjusted acreage of any part or parts of an agricultural



land holding or holdings apportioned under *paragraph (c)* of this subsection to the person who occupies the first-mentioned holding, the total of the adjusted acreages would, in the opinion of the Commissioner, be not less than 20 adjusted acres, 5

- (c) every agricultural land holding which is occupied by two or more persons whether as joint tenants, tenants in common or otherwise and the adjusted acreage of which is such that, if it were apportioned under *section 3* of this Act and the part so apportioned to any of those persons were added to the adjusted acreage of any other agricultural land holding or holdings, apportioned under the said *section 3* where appropriate, occupied by that person, the total of the adjusted acreages, as so apportioned where appropriate, would, in the opinion of the Commissioner, be not less than 20 adjusted acres, 10 15

and, as respects such a holding situated in the functional area of more than one local authority, shall determine the adjusted acreages of the parts of the holding in each such area.

- (4) The Commissioner may, if he thinks it appropriate to do so, determine the adjusted acreage of an agricultural land holding under this section and list the holding and enter the particulars in relation thereto specified in *subsection (2)* of this section in a classification list notwithstanding the fact that— 20

- (a) no officer of the Commissioner has, pursuant to *section 17* of this Act, entered for the purposes of this section on the land comprised in the holding, or 25
- (b) in response to a request for information by an officer of the Commissioner under the said *section 17*, no information in relation to the land, or information in relation to the land that is inadequate, false or misleading in a material particular, has been furnished to any such officer under that section. 30

- (5) The Commissioner—

- (a) shall, as soon as may be after the 1st day of September, 1986, but not more than one month after that date, send to the local authorities to whose functional areas they relate copies of the classification lists compiled under this section during the period ending on that date, whether or not the compilation has in each case been completed, 35 40
- (b) shall, as soon as may be after the 1st day of March, 1987, but not more than one month after that date, send to the local authorities to whose functional areas they relate copies of the classification lists compiled under this section during the period of 6 months ending on that date, whether or not the compilation has in each case been completed, 45
- (c) shall, as soon as may be after the 1st day of September, 1987, but not more than one month after that date, send to the local authorities to whose functional areas they relate copies of the classification lists compiled under this section during the period of 6 months ending on that date, whether or not the compilation has in each case been completed, and 50



(d) shall, as soon as may be after each subsequent 1st day of September until the compilation of all the classification lists has been completed, but not more than one month after each such date, send to the local authorities to whose functional areas they relate copies of those classification lists the compilation of which was continued or completed during the periods of 12 months ending on those dates.

5.—(1) A local authority shall, within 14 days of the receipt by it of a copy of a classification list compiled under *section 4 (1)* of this Act— Display of classification lists.

(a) publish a notice in a newspaper circulating in its functional area stating that a copy of the list may be inspected at specified offices of the local authority and specified Garda Síochána stations in that area between 10 a.m. and 5 p.m. on specified days during the 21 days immediately following such publication, and

(b) send by post or give to each owner and occupier of an agricultural land holding, or part of such a holding, specified in the list of whose existence and name and address it is aware and to whom such a copy has not previously been sent under this paragraph a copy of the particulars in the list relating to the holding or part.

(2) A copy of a classification list referred to in a notice under *subsection (1)* of this section shall be made available for inspection by members of the public at the offices and Garda Síochána stations, on the days and between the times, specified in the notice and members of the public shall be permitted to enter those offices and stations and inspect the copy on the days and between the times aforesaid.

6.—(1) (a) An owner or occupier of an agricultural land holding, or part of such a holding, listed in a classification list may, by notice in writing, sent by post or given by him or on his behalf to the Commissioner, within 28 days of the first publication pursuant to *section 5* of this Act following such listing of a notice in respect of the list, appeal against any of the particulars entered in the list in relation to the holding, or the part. Appeals in relation to classification lists.

(b) A local authority may, by notice in writing sent by post or given to the Commissioner, within 28 days of the publication pursuant to the said *section 5* of a notice in respect of the relevant classification list—

(i) appeal against any of the particulars in the list in relation to any agricultural land holding, or part of such a holding, in its functional area listed in the list, or

(ii) apply for the listing in the list of an agricultural land holding, or part of such a holding, not previously so listed and for the entry in the list of the relevant particulars in relation to such holding or part,

and, upon receipt of a notice under this paragraph,



the Commissioner shall, as soon as may be, cause a copy of the relevant particulars therefrom to be sent by post or given to any owner or occupier, whose name and address are entered in the list or specified in the notice, of the agricultural land holding, or part 5 of such a holding, concerned.

(2) A notice under *subsection (1)* of this section shall contain the particulars entered in the relevant classification list of the agricultural land holding, or part of such a holding, to which the appeal or application concerned relates, of the amendment sought and of the 10 grounds for the appeal or application.

(3) The Commissioner shall, as soon as may be after the receipt by him of a notice under *subsection (1)* of this section, cause the owner or occupier concerned to be informed, by notice in writing sent by post or given to him that he may, within 28 days of the receipt of 15 the notification, make representations in writing to the Commissioner in relation to the matter and, having considered any such representations made within the time so specified, the Commissioner shall determine whether the relevant classification list should be amended and, if he determines that it should be amended, he shall determine 20 the amendment and cause the relevant classification list to be amended accordingly.

(4) Where, as a consequence of a determination under *subsection (3)* of this section, a classification list is amended, the Commissioner shall, as soon as may be, cause notice in writing of the amendment 25 to be sent by post or given to any owner or occupier of whose existence and name and address he is aware of any agricultural land holding (other than that to which the appeal or application concerned relates) affected by the amendment.

(5) The Commissioner shall in each year, until and including the 30 year after the year in which the compilation of the classification lists under *section 4* of this Act is completed and any appeals or applications in relation thereto under this section have been determined by him, compile—

(a) a list, in respect of the functional area of each local authority 35 concerned, of the appeals and applications brought under *subsection (1)* of this section that were determined during the year immediately preceding in relation to agricultural land holdings and parts of such holdings situated in that area in respect of which amendments of the classification 40 lists concerned fell to be, and were, made, and

(b) a list, in respect of the functional area of each local authority concerned, of the appeals and applications brought under the said *subsection (1)* that were determined during the 45 year immediately preceding in relation to agricultural land holdings and parts of such holdings situated in that area in respect of which amendments of the classification lists concerned did not fall to be, and were not, made.

(6) (a) Each list compiled by the Commissioner under *subsection (5)* of this section shall be signed by the Commissioner, 50 and shall state the name, address and description of any owner and occupier, the acreage, the adjusted acreage and the location of each agricultural land holding, or part of such a holding, listed in the list.

(b) Each list referred to in *paragraph (a)* of the said *subsection* 55



(5) shall specify any amendment of the relevant classification list made under this section in the year to which the list relates and affecting an agricultural land holding, or part of such a holding, listed in the list.

5 (7) The Commissioner shall, as soon as may be in each year, send to each local authority concerned a copy of any lists compiled by him under *subsection (5)* of this section in relation to the functional area of the authority in respect of the immediately preceding year.

(8) A local authority shall, within 14 days of the receipt by it of a  
10 copy of a list compiled under *subsection (5)* of this section—

(a) publish a notice in a newspaper circulating in its functional area stating that a copy of the list may be inspected at specified offices of the local authority and specified Garda Síochána stations in that area between 10 a.m. and 5 p.m.  
15 on specified days during the 21 days immediately following such publication, and

(b) send by post or give to each owner and occupier of an agricultural land holding, or part of such a holding, specified in the list of whose existence and name and address it is aware notice in writing of whichever of the following  
20 is appropriate:

(i) any amendment made under this section of the relevant classification list affecting the holding or part, or

(ii) the fact that no such amendment was made.

25 (9) A copy of a list referred to in a notice under *subsection (8)* of this section shall be made available for inspection by members of the public at the offices and Garda Síochána stations, on the days and between the times, specified in the notice and members of the public shall be permitted to enter those offices and stations and inspect the  
30 copy on the days and between the times aforesaid.

(10) An amendment of a classification list under this section or (in the case of an appeal from a determination under this section) *section 8* of this Act shall have effect—

35 (a) in the case of an application under *subsection 1 (b) (ii)* of this section, as on and from such date as may be determined by the Commissioner or, where appropriate, the Tribunal or the High Court, and

(b) in any other case, as on and from the date of the first publication pursuant to *section 5* of this Act of a notice under that section following the determination under *section 4 (3)* of this Act in respect of the agricultural land holding concerned.  
40

7.—(1) (a) An owner or occupier of an agricultural land holding, or part of such a holding, listed in a classification list  
45 may, by notice in writing sent by post or given by him or on his behalf to the Commissioner, apply at any time for the revision of any of the particulars entered in the list in relation to the holding or the part.

Revision of classification lists.

50 (b) A local authority may, by notice in writing sent by post or given to the Commissioner, apply at any time for—



(i) the revision of any of the particulars in the list in relation to any agricultural land holding, or part of such a holding, in its functional area listed in the relevant classification list, or

(ii) the listing in the relevant classification list of an agricultural land holding, or part of such a holding, not previously so listed and for the entry in the list of the relevant particulars in relation to such holding or part,

and, upon receipt of a notice under this paragraph, the Commissioner shall, as soon as may be, cause a copy of the relevant particulars therefrom to be sent by post or given to any owner or occupier, whose name and address are entered in the list or specified in the notice, of the agricultural land holding, or part of such a holding, concerned.

(2) A notice under *subsection (1)* of this section shall contain the particulars entered in the relevant classification list of the agricultural land holding, or part of such a holding, to which the application concerned relates, of the revision sought and of the grounds for the application.

(3) Subject to *subsection (12)* of this section, the Commissioner shall, as soon as may be after the receipt by him of a notice under *subsection (1)* of this section, cause the owner or occupier concerned to be informed, by notice in writing sent by post or given to him that he may, within 28 days of the receipt of the notification, make representations in writing to the Commissioner in relation to the matter and, having considered any such representations made within the time so specified, the Commissioner shall determine whether the relevant classification list should be amended, and if he determines that it should be amended, he shall determine the amendment and cause the relevant classification list to be amended accordingly.

(4) Where, as a consequence of a determination under *subsection (3)* of this section, a classification list is amended, the Commissioner shall, as soon as may be, cause notice in writing of the amendment to be sent by post or given to the owner or occupier of whose existence and name and address he is aware of any agricultural land holding (other than that to which the application relates) affected by the amendment.

(5) The Commissioner shall before the 1st day of November in each year compile—

(a) a list (to be known as a revision list) in respect of the functional area of each local authority concerned, of the applications brought under *subsection (1)* of this section that were determined during the 12 months ending on the 30th day of September in that year in relation to agricultural land holdings, and parts of such holdings, situated in that area in respect of which amendments of the classification lists concerned fell to be, and were, made, and

(b) a list, in respect of the functional area of each local authority concerned, of the applications brought under the said *subsection (1)* that were determined during the 12 months aforesaid in relation to agricultural land holdings, and parts of such holdings, situated in that area in respect of



which amendments of the classification lists concerned did not fall to be, and were not, made.

- 5 (6) (a) Each list compiled by the Commissioner under *subsection* (5) of this section shall be signed by the Commissioner and shall state the name, address and description of any owner and occupier, the acreage, the adjusted acreage and the location of each agricultural land holding, or part of such a holding, listed in the list.
- 10 (b) Each revision list shall specify any amendment of the relevant classification list made under this section, or any determination made under *subsection* (10) (a) of this section, in the period of 12 months to which the list relates and affecting an agricultural land holding, or part of such a holding, listed in the list.
- 15 (7) The Commissioner shall, not later than the 1st day of November in each year, send to each local authority concerned a copy of any revision list or other list compiled by him under *subsection* (5) of this section in relation to the functional area of the authority in the 12 months ending on the 30th day of September in that year.
- 20 (8) A local authority shall within 14 days of the receipt by it of a copy of a revision list or other list compiled under *subsection* (5) of this section—
- 25 (a) publish a notice in a newspaper circulating in its functional area stating that a copy of the list may be inspected at specified offices of the local authority and specified Garda Síochána stations in that area between 10 a.m. and 5 p.m. on specified days during the 21 days immediately following such publication, and
- 30 (b) send by post or give to each owner and occupier of an agricultural land holding, or part of such a holding, specified in the list of whose existence and name and address it is aware, notice in writing of whichever of the following is appropriate:
- 35 (i) any amendment made under this section of the relevant classification list and particulars of any determination under *subsection* (10) (a) of this section, affecting the holding or part, or
- (ii) the fact that no such amendment was made.
- 40 (9) A copy of a list referred to in a notice under *subsection* (8) of this section shall be made available for inspection by members of the public at the offices and Garda Síochána stations, on the days and between the times, specified in the notice and members of the public shall be permitted to enter those offices and stations and inspect the copy on the days and between the times aforesaid.
- 45 (10) An amendment of a classification list under this section or (in the case of an appeal from a determination under this section) *section* 8 of this Act shall have effect as follows:
- 50 (a) in case, as respects the agricultural land holding concerned, there has been conduct of the kind specified in *paragraph* (a) or (c) of *section* 17 (4) of this Act by the occupier of the holding or his servant or agent, from such year as may be determined by the Commissioner or, where appropriate, the Tribunal or the High Court (including a year prior



to the year in which the application under this section to which the amendment relates is made) and for each subsequent year, and

- (b) in any other case, for the year next following the year in which the relevant application under *subsection (1)* of this section was made and for each subsequent year,

and, where, in a case to which *paragraph (a)* of this subsection applies, an amount in respect of farm tax or additional farm tax is payable for any year in consequence of such an amendment, it shall be deemed, for the purposes of this Act, to have been demanded under *section 11* of this Act for that year on the date of the expiration in that year of the period specified in *section 12 (2)* of this Act or, if a date was prescribed under *subsection (2)* of the said *section 11* for that year, that date.

- (11) A date other than any date specified in *subsections (5) and (7)* of this section may be prescribed by the Minister for Finance for the purposes of those subsections and those subsections shall, during any period in which a date stands so prescribed as aforesaid have effect as if the date standing so prescribed were substituted for the date aforesaid standing specified in the said *subsection (5)* or *(7)*, as the case may be, immediately before such prescription.

- (12) (a) An application under this section shall not be entertained by the Commissioner if he determines that the circumstances governing the adjusted acreage of the holding concerned have not materially changed since its determination or latest revision (if any) under this Act and he shall notify the person making such an application of his determination.

- (b) The first entry on land comprised in the holding concerned by an officer of the Commissioner following the prevention of such entry or following the obstruction or hindrance of an officer of the Commissioner in the performance of his functions under *section 17* of this Act in relation to the land shall be deemed for the purposes of *paragraph (a)* of this subsection to be a material change of circumstances governing the adjusted acreage of the land.

Establishment of,  
and appeals to,  
Farm Tax Tribunal.

- 8.—(1) (a) There shall, by virtue of this section, be established on such date as may be prescribed by the Minister for Finance a tribunal, to be known as the Farm Tax Tribunal and in this Act referred to as the Tribunal, to hear and determine appeals under *subsections (2) and (3)* of this section.

- (b) The provisions of the Schedule to this Act shall have effect in relation to the Tribunal.

- (2) (a) (i) An owner or occupier of an agricultural land holding, may, by notice in writing sent by post or given by him or on his behalf to the Tribunal within 28 days from the date of the publication, pursuant to *subsection (8)* of *section 6* of this Act or *subsection (8)* of *section 7* of this Act, of a notice in relation to a determination under the said *section 6* or *7*, as the case may be, or of the receipt of the notification under *subsection (12)* of the said *section 7* appeal to the Tribunal from the determination.



- (ii) A local authority may, by notice in writing sent by post or given to the Tribunal within 28 days from the date of the publication, pursuant to *subsection (8) of section 6* of this Act or *subsection (8) of section 7* of this Act, of a notice in relation to a determination under the said *section 6 or 7*, as the case may be, appeal to the Tribunal from the determination.
- (b) A notice under *paragraph (a)* of this subsection shall contain the particulars entered in the relevant classification list of the agricultural land holding, or part of such a holding, to which the appeal concerned relates, of the determination appealed against and of the grounds for the appeal.
- (c) The Tribunal shall transmit a copy of every notice received by it under *paragraph (a)* of this subsection to the Commissioner (who shall be the respondent in, and be entitled to be heard and to adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to have an interest in or to be likely to be affected by the determination of the appeal concerned and that person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.
- (3) (a) An occupier of an agricultural land holding may, by notice in writing sent by post or given to the Tribunal, within 28 days from the date on which notification of an apportionment of the adjusted acreage of the holding under *section 3* of this Act was sent or given to him under the said *section 3*, appeal to the Tribunal against the apportionment.
- (b) A notice under *paragraph (a)* of this subsection shall contain the particulars entered in the relevant classification list of the agricultural land holding to which the appeal concerned relates, of the occupiers of the holding, of the apportionment appealed against and of the grounds for the appeal.
- (c) The Tribunal shall transmit a copy of every notice received by it under *paragraph (a)* of this subsection to the occupiers (other than the occupier bringing the appeal) of the agricultural land holding concerned, to every local authority concerned (who shall be the respondents in, and be entitled to be heard and to adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to have an interest in or to be likely to be affected by the determination of the appeal concerned and that person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.
- (d) A variation of an apportionment under *section 3* of this Act made under *subsection (1)* of this section or (in the case of an appeal from a determination under that subsection) *subsection (4)* of this section shall have effect as on and from the date of the receipt by the occupier concerned of the relevant notification referred to in *paragraph (a)* of this subsection.
- (4) A party to an appeal to the Tribunal or any other owner or occupier of an agricultural land holding affected by the determination may, within 28 days of the announcement of the determination of the



appeal by the Tribunal, appeal from the determination to the High Court on a point of law.

(5) The Commissioner shall as soon as may be cause the appropriate classification list to be amended, where any such amendment falls to be made pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section and shall notify in writing the local authority, or local authorities, concerned of the amendment. 5

(6) The Minister for Finance may, with the consent of the Minister for the Public Service, from time to time appoint from among his officers such and so many persons as he considers necessary to assist the Tribunal in the performance of its functions under this Act. 10

Charge of farm tax.

9.—(1) There shall be charged, levied and paid in each year, beginning with such year as may be prescribed, in respect of every taxable farm a tax to be called farm tax. 15

(2) (a) Subject to *paragraphs (b) and (c)* of this subsection and to *section 21* of this Act, farm tax in respect of a taxable farm for any year shall be paid in that year by the person who stands entered as the occupier of the farm in the relevant classification list or classification lists on the date on which the rate of farm tax for that year is prescribed under *subsection (4)* of this section to the local authority or local authorities in whose functional area or functional areas the farm is situated. 20

(b) Where, on the date on which the rate of farm tax for any year is prescribed as aforesaid, two or more persons (whether as joint tenants, tenants in common or otherwise and whether or not they or some of them are connected with one another) stand entered in the relevant classification list or classification lists as the occupiers of a taxable farm and none of them is a person to whom a part of the farm is apportioned under *section 3 (2)* of this Act, those persons shall be jointly and severally liable for the payment to the local authority or local authorities in whose functional area or functional areas the farm is situated of the farm tax payable in respect of the farm for that year. 25 30 35

(c) Where, on the date on which the rate of farm tax for any year is prescribed as aforesaid—

(i) two or more persons stand entered in the relevant classification list or classification lists as the occupiers of a taxable farm, 40

(ii) one or more of them is a person or persons to whom a part or parts of an agricultural land holding constituting the farm is or are apportioned under the said *section 3 (2)*, and 45

(iii) one or more of them is or are not a person or persons to whom a part or parts of the holding aforesaid is or are apportioned as aforesaid,

the person or persons referred to in *subparagraph (iii)* of this paragraph shall be liable (jointly and severally if there is more than one such person) for the payment to the local authority or local authorities in whose functional area or 50



functional areas the farm is situated of the farm tax (if any) payable for that year in respect of so much of the farm as is not apportioned as aforesaid.

(3) Where a taxable farm is situated in the functional area of more than one local authority, such amount of the farm tax payable in respect of the farm as is calculated by reference to the adjusted acreage of the part of the farm situated in the functional area of any such authority shall be paid to that authority.

(4) (a) Farm tax shall, subject to *section 10* of this Act, be paid in each year in which it is payable by virtue of *subsection (1)* of this section in respect of taxable farms at such rate as may be prescribed for that year per adjusted acre of the adjusted acreages standing entered in respect of the agricultural land holdings, or parts of such holdings, constituting the farms in the relevant classification lists on the date on which the rate of farm tax for that year is prescribed under this subsection.

(b) In prescribing a rate of farm tax for any year under *paragraph (a)* of this subsection, the Minister shall have regard to—

(i) the estimated level of family farm incomes in the immediately preceding year compared with the estimated level of such incomes in the preceding year but one, and

(ii) the estimated yield from the taxes and duties payable into the Exchequer in the immediately preceding year compared with the estimated yield from such taxes and duties in the preceding year but one.

(5) Where the total adjusted acreage of a taxable farm consists of a number of adjusted acres and a fraction of an adjusted acre, there shall be paid in respect of the fraction farm tax of an amount bearing the same proportion to the rate of farm tax on one adjusted acre as the fraction bears to one adjusted acre.

(6) References in this section and in *section 11* of this Act to the person who stands entered in a classification list or classification lists as the occupier of a taxable farm, or part of a taxable farm, are references to the person who stands entered in that list as the occupier of the agricultural land holding, or part of such a holding, constituting that farm or that part of a farm or, as the case may be, to the person who is the occupier of an agricultural land holding, or part of such a holding, referred to in *section 3 (2) (ii)* of this Act constituting the taxable farm, or part of the taxable farm.

(7) A person and an adjusted acreage shall be deemed, for the purposes of this Act, not to stand entered in a classification list on a particular date unless the local authority concerned has been notified under this Act of such entry on or before that date.

10.—Where the adjusted acreage of an agricultural land holding constituting a taxable farm standing entered in the relevant classification list or classification lists on the date on which the rate of farm tax for any year is prescribed under *section 9 (4)* of this Act equals the number of adjusted acres standing specified for that year in *section 3 (1)* of this Act or exceeds that number by not more than 4 adjusted acres, the farm tax payable in respect of the farm for that year shall be reduced—

(a) if the adjusted acreage equals the number aforesaid or if the excess is 1 adjusted acre or less, by  $\frac{4}{5}$ ths of the farm tax payable apart from this section,

(b) if the excess is more than 1 adjusted acre but not more than

Marginal relief.



2 adjusted acres, by  $\frac{3}{5}$ ths of the farm tax payable apart from this section,

(c) if the excess is more than 2 adjusted acres but not more than 3 adjusted acres, by  $\frac{2}{5}$ ths of the farm tax payable apart from this section, and 5

(d) if the excess is more than 3 adjusted acres but not more than 4 adjusted acres, by  $\frac{1}{5}$ th of the farm tax payable apart from this section.

Payment of farm tax.

11.—(1) Farm tax in respect of a taxable farm shall be payable each year not later than two weeks after the date on which it is demanded. 10

(2) A local authority shall, in each year, as soon as may be after the expiration of the period specified in *section 12 (2)* of this Act, or after such other date as may be prescribed in respect of any year during the period from the passing of this Act to the end of the year immediately following that in which the compilation of the classification lists is completed, by notice in writing sent by post or given to each person who stands entered in the relevant classification list or classification lists as the occupier of a taxable farm, or part of a taxable farm, in its functional area, notify the occupier of the amount of farm tax payable by him for that year in respect of the taxable farm or part and require payment thereof by the occupier to the local authority in accordance with this Act, and the date on which the notice is posted or, as the case may be, given to the occupier shall be deemed, for the purposes of *subsection (1)* of this section, to be the date on which farm tax in respect of the taxable farm is demanded. 15 20 25

(3) (a) Where regulations under *paragraph (b)* of this subsection are for the time being in force, the occupier of a taxable farm may, subject to compliance with such conditions as may from time to time be specified by the local authority or local authorities in whose functional area or functional areas the farm is situated and any regulations under *paragraph (b)* of this subsection, in lieu of paying farm tax in respect of the farm in accordance with *subsection (1)* of this section, pay it to the local authority or local authorities in accordance with this subsection. 30 35

(b) The Minister may make regulations for the purposes of *paragraph (a)* of this subsection and such regulations may, without prejudice to the generality of the foregoing, make provision for all or any of the following: 40

(i) for enabling farm tax to be paid in instalments,

(ii) the specifying of conditions (including the specifying of conditions by a local authority) subject to which a person may pay farm tax in instalments under this subsection and the conditions which may be so specified, 45

(iii) the manner of calculating the amount and number of such instalments and the dates on which they are payable, including provision for their payment in advance of the prescription of the relevant rate of farm tax, 50

(iv) the manner in which such instalments shall be paid,



(v) in a case where an instalment of farm tax is not paid on or before the date on which it is payable under the regulations, for the payment of the farm tax, or so much thereof as is unpaid, on such date as may be specified by the local authority, being a date not earlier than the date on which the farm tax would have been payable under *subsection (1)* of this section.

(c) Different regulations may be made under this section for different circumstances and different classes of cases.

(4) (a) Where an appeal or application has been brought under *section 6* or *7* of this Act and the appeal or application has not been finally determined and the relevant classification list or classification lists has or have not been amended appropriately where necessary, farm tax in respect of the relevant taxable farm shall be calculated and paid in accordance with *section 9* of this Act.

(b) Where an appeal has been brought under *section 8 (3)* of this Act and the appeal has not been finally determined, farm tax in respect of the relevant taxable farm shall, pending such determination, be calculated and paid as if the appeal had not been brought.

(5) Where, in consequence of the amendment of a classification list pursuant to an appeal or application under the said *section 6* or *7* that has been finally determined or in consequence of the variation of an apportionment under *section 3 (2)* of this Act pursuant to an appeal under *section 8 (3)* of this Act that has been finally determined, there has been a payment of farm tax by a person not liable to make such a payment or an overpayment of farm tax, the local authority concerned shall pay to the person who made the payment or overpayment the amount thereof.

(6) Where, in consequence of such an amendment or variation as aforesaid, an amount in respect of farm tax, or additional farm tax or interest payable thereon under this Act, falls to be paid by a person, the local authority concerned shall, by notice in writing sent by post or given to the person, inform the person of the amount and that amount shall be payable by the person to the local authority not later than two weeks after the date of the receipt of such notice.

(7) (a) Where an amount of farm tax is unpaid for a period of more than 2 months after the expiration of the period mentioned in *subsection (1)* or *(6)* of this section, the person who stands entered in the relevant classification list or classification lists as the occupier of the taxable farm concerned shall pay to the local authority or local authorities concerned interest on the amount calculated at the rate of  $1\frac{1}{4}$  per cent. for each month or part of a month of the first-mentioned period.

(b) A local authority may, if it is satisfied that it is appropriate to do so, remit all or part of any amount payable to it under *paragraph (a)* of this subsection.

(8) Where, in the opinion of a local authority, payment of farm tax, or of interest payable thereon under this Act, at a particular time by a particular person by whom it is payable would cause undue hardship to the person, the local authority may, by notice in writing sent by post or given to the person, suspend action or further action



under this Act to secure payment of the whole or part of the amount of the tax or the interest aforesaid for such period as may be specified in the notice and where, in relation to any amount of farm tax, there is a suspension under this subsection for any period—

(a) *subsection (7)* of this section shall not apply, in respect of 5  
that period, to that amount, and

(b) *section 21* (other than *subsection (5)*) of this Act shall, notwithstanding the suspension, continue to apply in relation to that amount during that period.

(9) An appeal or application referred to in *subsection (4)* or *(5)* of 10  
this section shall be deemed, for the purposes of those subsections, to be finally determined—

(a) in case an appeal under *subsection (2)* of *section 8* of this Act has not been brought in relation to the determination of the appeal or application, upon the expiration of the time 15  
for instituting such an appeal,

(b) in case an appeal has been brought under the said *subsection (2)* in relation to such determination, but an appeal under *subsection (4)* of the said *section 8* in relation to the matter has not been brought, upon the expiration of the time for 20  
instituting an appeal under the said *subsection (4)*,

(c) in case an appeal has been brought under the said *subsection (4)* in relation to such determination, upon the determination of the appeal,

(d) in case an appeal has been brought under *subsection (3)* of 25  
the said *section 8*—

(i) if an appeal under the said *subsection (4)* from the determination of the first-mentioned appeal has not been brought, upon the expiration of the time for instituting such an appeal, and 30

(ii) if an appeal has been brought under the said *subsection (4)* from such a determination, upon the determination of the appeal.

Farm tax record.

12.—(1) A local authority shall, as soon as may be after the prescription of the rate of farm tax under *section 9* of this Act for a 35  
year, compile a record for that year, to be known as a farm tax record, of the particulars standing entered in the classification list for its functional area on the date of such prescription together with particulars of the amount of farm tax payable for that year in respect of each 40  
relevant taxable farm, or part of such a farm.

(2) As soon as may be after the completion by a local authority of a farm tax record, the authority shall publish a notice in a newspaper circulating in its functional area stating that a copy of the record may be inspected at specified offices of the local authority and specified 45  
Garda Síochána stations in that area between 10 a.m. and 5 p.m. on specified days during the 21 days immediately following such publication.

(3) A copy of a farm tax record referred to in a notice under *subsection (1)* of this section shall be made available for inspection by members of the public at the offices and Garda Síochána stations, 50  
on the days and between the times, specified in the notice and



members of the public shall be permitted to enter those offices and stations and inspect the copy on the days and between the times aforesaid.

(4) A local authority may, for the purpose of rectifying errors and omissions in a farm tax record compiled by it, amend the record at any time.

(5) A document purporting to be a copy of a farm tax record, or of an extract from a farm tax record, and to bear on it a certificate signed by an officer of the local authority by which the farm tax record was compiled stating that it is such a copy as aforesaid shall, without proof of the signature of the person signing the document or that he was, at the time of the signing of the document, such officer as aforesaid, be evidence in any court, until the contrary is proved, of the matters stated in that farm tax record or extract, as the case may be.

13.—(1) A local authority shall include in its estimates of expenses (within the meaning of the City and County Management (Amendment) Act, 1955) for each local financial year, being such local financial year as may be prescribed and each subsequent local financial year, the estimated amount of the revenue that will accrue to it in respect of farm tax for that year.

Inclusion of revenue from farm tax in estimates of expenses of local authorities.

(2) There may, if the Minister so thinks fit, be prescribed for the purposes of *subsection (1)* of this section, for any local financial year during the period from the passing of this Act to the end of the year immediately following that in which the compilation of all the classification lists is completed, arrangements other than those for the time being in force for the estimating by local authorities of the revenues that will accrue to them in that year from farm tax and for the accounting by them for such revenues.

14.—(1) There shall stand established, for a period of five years from the passing of this Act or such longer period as may be prescribed from time to time by the Minister for Finance, the office of Farm Tax Commissioner and the holder of the office shall be known as the Farm Tax Commissioner and is referred to in this Act as "the Commissioner".

Farm Tax Commissioner.

(2) The Commissioner shall be appointed by the Minister for Finance.

(3) (a) The Commissioner shall hold office on such terms and conditions and receive such remuneration and allowances as the Minister for Finance may, with the consent of the Minister for the Public Service, determine.

(b) The Minister for Finance may, with the consent of the Minister for the Public Service, 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 Farm Tax Commissioner.

(c) The Minister for Finance may, with the consent of the Minister for the Public Service, make and carry out in accordance with its terms a scheme or schemes amending or revoking a scheme or schemes under this section (including a scheme under this paragraph).



(4) The Commissioner shall be independent in the performance of his functions.

(5) A person appointed to be the Commissioner shall hold office for such period not exceeding 5 years as the Minister for Finance may determine when appointing him, but the Minister for Finance may 5  
whenever he thinks fit, continue the appointment (including an appointment previously continued under this subsection) for such further period not exceeding five years as he considers appropriate.

(6) The Commissioner may do all such acts or things as are necessary or expedient for the purpose of the exercise of his functions 10  
under this Act.

(7) The Minister for Finance may, with the consent of the Minister for the Public Service, appoint such and so many persons to be members of the staff of the Commissioner as the Minister for Finance may determine. 15

(8) The Civil Service Commissioners Act, 1956 and the Civil Service Regulation Acts, 1956 and 1958 and the Superannuation Acts, 1834 to 1963 shall apply to members of the staff of the Commissioner.

(9) The Commissioner shall furnish to the Minister for Finance such information regarding the performance of his functions as the 20  
Minister for Finance may from time to time request.

(10) (a) The Commissioner may be removed from office at any time by the Minister for Finance.

(b) If the Commissioner is removed from office under this subsection, the Minister for Finance shall cause to be laid 25  
before each House of the Oireachtas a statement of the reasons for the removal.

(11) (a) Whenever it appears to the Minister for Finance that the Commissioner is temporarily unable to discharge his duties, the Minister for Finance may appoint a person to 30  
act in the place of the Commissioner during such inability or for such shorter period as the Minister for Finance thinks proper.

(b) A person appointed under *paragraph (a)* of this subsection shall have all the functions of the Commissioner and 35  
references in this Act to the Commissioner shall be deemed to include references to such a person.

(12) Immediately upon the cesser of the office of Farm Tax Commissioner—

(a) the functions of the Commissioner under this Act shall 40  
become and be vested in the Commissioner of Valuation (within the meaning of the Valuation Acts),

(b) references in this Act to the Commissioner shall be construed as references to the Commissioner of Valuation (within 45  
the meaning aforesaid),

and this Act shall be construed and have effect accordingly with any other necessary modifications.

Delegation of  
functions by Farm  
Tax Commissioner.

15.—(1) The Commissioner may delegate any of his functions under this Act to any one or more of the officers of the Commissioner



but shall not delegate a function in relation to an appeal or application under *section 6* of this Act to an officer of the Commissioner who has previously performed a function under this Act in relation to the agricultural land holding concerned.

5 (2) Where a function is delegated under *subsection (1)* of this section—

(a) the officer of the Commissioner to whom the function is delegated, shall perform the function under the general direction and subject to the general control of the Commissioner, and

10 (b) the officer of the Commissioner to whom the function is delegated shall perform the function in accordance with such (if any) limitations as may be specified in the delegation in relation to the area or period in which or the extent to which he is to perform the function.

15 (3) Notwithstanding *subsection (2)* of this section, where a function is delegated under *subsection (1)* of this section, the Commissioner may, in any particular case of the performance of the function, inform the officer of the Commissioner concerned that he has decided to perform the function, or continue the performance of the function, himself, as on and from a specified date and, if he does so, the function shall, as on and from the date so specified, be performable by the Commissioner and not by the officer of the Commissioner concerned.

20 (4) A delegation under this section may relate to the performance generally of a function or to the performance of a function in a particular case or class of case or in relation to land in a particular area.

25 (5) (a) The Commissioner may revoke a delegation under this section at any time either generally or in relation to a particular case or class of case or in relation to land in a particular area.

30 (b) Where, as respects a particular case, a delegation of a function is revoked under this section at a time when the function has not been fully performed, the Commissioner may continue the performance of the function as respects the case.

35 (6) The Minister for Finance may give general directions to the Commissioner concerning the exercise of his functions under this section and the Commissioner shall comply with any such directions.

40 16.—(1) An officer of the Commissioner authorised by the Commissioner to exercise the powers conferred by this subsection may inspect and take copies of, or of extracts from, such books and records of the Commissioner of Valuation or a local authority, as the officer considers appropriate for the purposes of the performance of the functions of the Commissioner under this Act, and, for the purposes of such inspection and taking of copies, shall have access at all reasonable times to such books and records. Information.

45 (2) Notwithstanding any obligation as to secrecy imposed on the Revenue Commissioners under the Income Tax Acts or under any other enactment, a local authority or an officer of the Commissioner



authorised by the Commissioner to exercise the powers conferred by this subsection may, for the purposes of the performance of the functions of the local authority or, as the case may be, the Commissioner under this Act, obtain from the Revenue Commissioners such information in the possession of the Revenue Commissioners as the local authority or the officer, as the case may be, considers appropriate for the purposes of the functions of the local authority or, as the case may be, the Commissioner under this Act in relation to the ownership or occupation of land and agricultural land holdings.

Entry on land.

17.—(1) An officer of the Commissioner authorised by the Commissioner to exercise the powers conferred by this subsection may, for the purposes of the performance of the functions of the Commissioner under this Act, enter on any land at all reasonable times and may there carry out such surveys, inspections, tests and examinations and take such measurements and such samples of soil as he considers appropriate for the purpose of the performance of the functions aforesaid and any person found on the land shall furnish to the officer such information within his knowledge or procurement in relation to the land and its ownership and occupation as the officer may request and is, in the opinion of the officer, reasonably required for the purpose of the performance of the functions aforesaid.

(2) Without prejudice to the provisions of *subsection (1)* of this section, an officer of the Commissioner authorised by the Commissioner to exercise the powers conferred by this subsection, may by notice in writing sent by registered post or given to a person believed by the officer to be the owner or occupier of land, or a servant or agent of the owner or occupier of land and responsible for its management, request the person to furnish to the officer such information in relation to the land and its ownership and occupation as may be specified in the notice and is, in the opinion of the officer, reasonably required for the purposes of the performance of the functions of the Commissioner under this Act.

(3) A person to whom a notice is given or sent under *subsection (2)* of this section shall, not later than 30 days after the date of the receipt by him of the notice, comply with the request for information contained therein.

(4) A person who—

- (a) prevents an officer of the Commissioner from entering on land or otherwise obstructs or hinders the officer in the performance of his functions under this Act, or
- (b) contravenes *subsection (1)* or *(3)* of this section, or
- (c) in response to a request for information under *subsection (1)* or *(2)* of this section, furnishes information to an officer of the Commissioner that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment.

(5) It shall be a defence for a person charged with an offence under *subsection (4)* of this section in relation to a request for information under *subsection (1)* or *(2)* of this section to show that the information requested was not within the knowledge or procurement of the person



and that he so informed an officer of the Commissioner not later than 30 days after the request for the information.

(6) It shall be a defence for a person charged with an offence under subsection (4) (c) of this section to show that he was not aware that the information to which the offence relates was false or misleading.

(7) An officer of the Commissioner performing functions under subsection (1) of this section shall be furnished with a warrant signed by the Commissioner authorising the exercise by him of the powers conferred by that subsection and shall produce the warrant for the inspection of any person affected by such exercise if he is requested to do so by the person.

(8) Where, owing to acts or conduct of the kind specified in subsection (4) (a) of this section by a person or his servant or agent, the Commissioner is unable to perform, or perform adequately, his functions under this Act in relation to any land, an appeal by the person under section 6 or 8 of this Act in relation to the land or an application by the person under section 7 of this Act in relation to the land shall not be entertained by the Commissioner or, as the case may be, the Tribunal.

18.—(1) An amount due in respect of farm tax, or interest thereon, and payable by a person to a local authority may be recovered by the local authority from the person as a simple contract debt in any court of competent jurisdiction.

Recovery of, and set-off of amounts against, farm tax.

(2) Any amount payable by a local authority to a person may be set off by the local authority, in whole or in part, as may be appropriate, against any amount payable by the person to the local authority in respect of farm tax or interest thereon.

(3) (a) A document purporting to be signed by an officer of a local authority and stating that a specified amount of farm tax in respect of a specified taxable farm, or a specified part of a specified taxable farm, is due and payable to that local authority by a specified person for a specified year shall, without proof of the signature of the person signing the document or that he was, at the time of the signing of the document, such officer as aforesaid, be evidence in any court, until the contrary is proved, of the facts stated in the document.

(b) A document purporting to be signed by an officer of a local authority and stating that a specified amount is due and payable to that local authority by a specified person in respect of interest payable under this Act for a specified period in respect of a specified amount of farm tax in respect of a specified taxable farm, or a specified part of a specified taxable farm, for a specified year shall, without proof of the signature of the person signing the document or that he was, at the time of the signing of the document, such officer as aforesaid, be evidence in any court, until the contrary is proved, of the facts stated in the document.

19.—(1) There shall be included among the debts which, under section 285 of the Companies Act, 1963, are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all amounts due in respect of farm tax, or interest thereon, payable by the company under this Act during the twelve months before the commencement of the winding up or the winding-up order,

Provisions relating to winding up and bankruptcy.



and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by rules made under that Act.

(2) *Subsection (1)* of this section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

(3) There shall be included among the debts which, under section 4 of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all amounts due in respect of farm tax, or interest thereon, payable under this Act by the bankrupt or arranging debtor during the twelve months before the date of the order of adjudication in the case of a bankrupt or the filing of the petition for arrangement in the case of an arranging debtor, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by general orders made under that Act.

Duty to inform local authority of, and amendment of classification lists consequent on, transfer of land, etc.

20.—(1) Where land, or an interest in land, is transferred (other than by will or on an intestacy) from a person to another person, it shall be the duty of both persons to notify in writing the local authority or local authorities in whose functional area or functional areas the land is situated of the transfer not later than 4 weeks after the date of the transfer.

(2) Where land, or an interest in land, is transferred to a person by will or on an intestacy, it shall be the duty of that person to notify in writing the local authority or local authorities in whose functional area or functional areas the land is situated of the transfer not later than 6 months after the date of the transfer and it shall be the duty of the personal representative of the person under whose will or upon whose intestacy the land, or the interest in land, is transferred as aforesaid to notify in writing the said local authority or local authorities of the transfer not later than 2 months after the date of the grant to him of probate of the said will or letters of administration of the estate of the second-mentioned person.

(3) (a) When a local authority is notified by any person of a transfer of land, or an interest in land, under this section, it shall be the duty of the local authority to notify the Commissioner of the transfer, and, upon being so notified, the Commissioner, having made any investigations he may consider necessary, shall make any appropriate amendments, consequent upon the transfer, of the classification list or classification lists concerned and shall notify in writing the local authority of any such amendments and the local authority shall notify that person of any such amendments.

(b) An amendment of a classification list under *paragraph (a)* of this subsection, shall be deemed for the purposes of *section 7 (12) (a)* of this Act to be a change of circumstances governing the adjusted acreage of the land concerned.

(4) A person who contravenes *subsection (1)* or *(2)* of this section shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000.



21.—(1) Subject to the provisions of this section, farm tax due and payable in any year in respect of a taxable farm and any interest due and payable thereon shall, on the date upon which it becomes so due and payable, become and shall remain until payment thereof, a charge upon the land standing entered in the relevant classification list or classification lists on the date on which the rate of farm tax for that year is prescribed under section 9 of this Act as being the land comprised in the farm and the tax and any such interest shall have priority over all charges and interests created in respect of the land:

Farm tax to be a charge on land.

10 Provided that where any settled property comprised in land subject to a charge under this section is subject to any power of sale, exchange or partition, the person entitled to exercise such power, or any person required to consent to the exercise of such power, shall not be precluded by the charge of farm tax or interest thereon on the land from exercising such power or consenting to its exercise, as the case may be; and where any such power is exercised, the farm tax and any interest thereon shall be charged upon the land acquired, in substitution for charging it on the first-mentioned land, and upon all moneys arising from the exercise of the power and upon all

20 investments of such moneys.

(2) Where there is a *bona fide* sale for full consideration in money or money's worth or a mortgage of land charged with farm tax or interest thereon, the land shall not remain charged with farm tax or any interest thereon as against the purchaser or mortgagee unless the amount of the consideration or mortgage debt exceeds £20,000 or the amount of the consideration or mortgage debt, together with the amount of the consideration or mortgage debt for any other such sale or mortgage between the same parties within 2 years prior to the date of the sale or mortgage, exceeds in the aggregate £20,000.

30 (3) Land shall not, as against a *bona fide* purchaser or mortgagee, remain charged with or liable to the payment of farm tax or interest thereon charged on the land after the expiration of 12 years from the date on which the tax or interest became so charged.

(4) Farm tax or interest thereon shall not be a charge on land under subsection (1) of this section as against a *bona fide* purchaser or mortgagee of such property for full consideration in money or money's worth without notice or a person deriving title from or under such a purchaser or mortgagee.

40 (5) Whenever land is subject to a charge by virtue of this section, a local authority in whose functional area the land is situated may sue the occupier of the land by action or other appropriate proceeding in any court of competent jurisdiction for, and the court may make an order directing the occupier to pay—

45 (a) the farm tax or any interest thereon with which the land is charged, or

(b) if part only of the land is situated in the functional area of that local authority, the farm tax payable in respect of the part or any interest thereon

to that local authority.

50 (6) Section 72 of the Registration of Title Act, 1964, shall apply as if references therein to estate duty included references to farm tax and interest payable under this Act on farm tax.

22.—(1) When any amount is paid by a person in respect of farm

Receipts and certificates.



tax, or interest thereon the local authority concerned shall give a receipt to the person for the payment.

(2) The local authority concerned shall, on application to it by a person who has paid farm tax or interest thereon in respect of a taxable farm and on payment to it of such fee (if any) as may be determined by that authority, give to the person a certificate, in such form as it thinks fit, of the amount of farm tax or interest paid by him to that authority in respect of that farm. 5

(3) The local authority concerned shall, on application to it by a person who is an occupier, or former occupier, of any land and on payment to it of such fee (if any) as may be determined by that authority, if it is satisfied that any farm tax or interest thereon charged on that land and payable to that authority has been or will be paid, or that no farm tax is chargeable in respect of that land, give a certificate to the person, in such form as it thinks fit, to that effect and the certificate shall discharge that land from liability for any farm tax or interest thereon (if any) to the extent specified in the certificate. 15

(4) A certificate referred to in subsection (3) of this section shall not discharge land from liability for farm tax or interest thereon, in case of fraud or failure to disclose material facts and, in any case, shall not affect farm tax or interest thereon, payable in respect of any other land: 20

Provided that a certificate purporting to be a discharge of all the farm tax and interest thereon payable in respect of any taxable farm included in the certificate shall exonerate from liability for such tax and interest a *bona fide* purchaser or mortgagee for full consideration in money or money's worth without notice of such a fraud or failure and a person deriving title from or under such a purchaser or mortgagee. 25

Provisions in relation to offences.

23.—(1) (a) An offence under section 17 of this Act may be prosecuted by the Commissioner. 30

(b) An offence under section 20 of this Act may be prosecuted by the local authority in whose functional area the land to which the offence relates is situated.

(c) An offence under the Schedule to this Act may be prosecuted by the Minister for Finance. 35

(2) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any person who, when the offence was committed, was a director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly. 40

Regulations to enable Act to have full effect and to remove difficulties.

24.—(1) The Minister may make regulations for the purpose of enabling this Act to have full effect. 45

(2) If in any respect any difficulty arises in bringing this Act into operation, the Minister may by regulations do anything which appears to be necessary or expedient for bringing this Act into operation, and any such regulation may modify the provisions of this Act so far as may appear necessary or expedient for carrying the regulation into effect. 50



(3) No regulation may be made under *subsection (2)* of this section after the expiration of two years after the passing of this Act.

25.—Every regulation or rule under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or rule, as the case may be, is passed by either such House within the next 21 days on which that House has sat after the regulation or rule, as the case may be, is laid before it, the regulation or rule, as the case may be, shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Laying of regulations and rules before Houses of Oireachtas.

26.—(1) Fees of such amounts as may be prescribed by the Minister for Finance shall be paid (other than by a local authority) in such classes of cases as may be prescribed—

Fees.

(a) to the Commissioner in respect of appeals under *section 6* of this Act and applications under *section 7* of this Act, and

(b) to the Tribunal in respect of appeals under *section 8* of this Act.

(2) Where a fee is payable under this section, the appeal under the said *section 6*, the application under the said *section 7* or the appeal under the said *section 8*, as the case may be, to which it relates shall not be entertained unless the notice in writing referred to in *subsection (1)* of the said *section 6*, *subsection (1)* of the said *section 7* or *subsection (2)* or (3) of the said *section 8*, as the case may be, is accompanied by the fee.

(3) The Public Offices (Fees) Act, 1879, shall not apply in respect of fees payable by virtue of this section.

27.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas and the expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Expenses of Minister and Minister for Finance.

28.—This Act may be cited as the Farm Tax Act, 1985.

Short title.

## SCHEDULE

Section 8.

### THE FARM TAX TRIBUNAL

1. (1) The Tribunal shall consist of a chairman and such number of deputy chairmen (if any) and ordinary members as the Minister for Finance may, with the consent of the Minister for the Public Service, determine from time to time, being such number as the Minister for Finance considers necessary, for the performance by the Tribunal of its functions under this Act.

(2) The members of the Tribunal shall be appointed from time to time as occasion requires by the Minister for Finance and, subject to the provisions of this Act, shall hold office upon such terms and conditions as the Minister for Finance may, with the consent of



the Minister for the Public Service, determine at the time of their appointment.

(3) The term of office of a member of the Tribunal shall be such period not exceeding 3 years as the Minister for Finance may, with the consent of the Minister for the Public Service, determine when appointing him and, subject to the provisions of this Schedule, a member of the Tribunal shall be eligible for re-appointment as such member. 5

(4) A member of the Tribunal may at any time resign his office as such member by letter addressed to the Minister for Finance and the resignation shall take effect on and from the date of receipt of the letter. 10

(5) Where a casual vacancy occurs among the members of the Tribunal, the Minister for Finance may, if he thinks it appropriate to do so, take such steps as are necessary to fill the vacancy and the person appointed to fill the vacancy shall hold office for the remainder of the term of office for which his predecessor was appointed. 15

(6) Members of the Tribunal shall be paid such remuneration (if any), and such allowances for expenses, as the Minister for Finance, with the consent of the Minister for the Public Service, may from time to time determine. 20

(7) (a) Where a member of the Tribunal is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is regarded, pursuant to section 15 of the European Assembly Elections Act, 1977, as having been elected to such Assembly to fill a vacancy, he shall thereupon cease to be a member of the Tribunal. 25

(b) 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 Assembly of the European Communities shall, while he is so entitled or is such a member, be disqualified from becoming a member of the Tribunal. 30

2. (1) The Minister for Finance shall from time to time as occasion requires appoint a member of the Tribunal to be chairman thereof. 35

(2) Where the chairman of the Tribunal ceases during his term of office as such chairman to be a member of the Tribunal, he shall thereupon also cease to be chairman of the Tribunal.

(3) The chairman of the Tribunal shall, unless he sooner dies, resigns or otherwise ceases to be chairman, hold office as such chairman until the expiration of his term of office as a member of the Tribunal but, if he is re-appointed as a member of the Tribunal, he shall be eligible for re-appointment as chairman of the Tribunal. 40

3. Whenever the chairman of the Tribunal is of opinion that for the speedy dispatch of the business of the Tribunal it is expedient that the Tribunal should act by divisions, he may direct accordingly, and, if he so directs, then, until he revokes his direction— 45

(a) the Tribunal may act by such number of divisions as may be determined by the chairman of the Tribunal from time to time, 50



- (b) a division of the Tribunal shall consist of three members of the Tribunal chosen by the chairman of the Tribunal of whom at least one shall be the chairman or a deputy chairman of the Tribunal,
- 5 (c) the chairman of the Tribunal shall assign to a division of the Tribunal the appeals to be determined by it,
- (d) the chairman of a division of the Tribunal shall be the chairman of the Tribunal or, if the chairman of the Tribunal is not a member of the division, the member thereof
- 10 who is a deputy chairman of the Tribunal, and
- (e) for the purposes of an appeal assigned to it, a division of the Tribunal shall have all the powers of the Tribunal and the chairman of a division of the Tribunal shall have all the power of the chairman of the Tribunal and references in
- 15 this Act to the Tribunal and the chairman of the Tribunal shall be construed as including references to a division and the chairman of a division, respectively.

4. (1) If and whenever the number of members of the Tribunal is three, an appeal to the Tribunal shall be heard and determined by

20 the three members.

(2) If and whenever the number of members of the Tribunal is more than three and a direction under *paragraph 3* of this Schedule is not in force, an appeal to the Tribunal shall be heard and determined by three members thereof chosen by the chairman of the Tribunal

25 and, if the chairman of the Tribunal is not among the members thereof chosen to hear and determine the appeal, one of those members chosen by the chairman of the Tribunal shall act as chairman thereof.

5. (1) The Tribunal shall hold sittings and at the sittings may take evidence and may receive submissions by or on behalf of the appellant

30 and the respondent in an appeal under *section 8* of this Act and any other person appearing to have an interest in or to be likely to be affected by the determination of the appeal.

(2) Sittings of the Tribunal shall be held in private.

6. A witness whose evidence has been, is being or is to be given

35 before the Tribunal shall be entitled to the same privileges and immunities as a witness in a court.

7. A determination of the Tribunal at or in relation to an appeal may be that of a majority of the members hearing the appeal.

8. The chairman of the Tribunal may—

40 (a) direct in writing a person whose evidence is required by the Tribunal to attend before the Tribunal on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his possession or power specified in the direction,

45 (b) direct any such person to produce to him any specified document or thing in his possession or power,

(c) give any other directions for the purpose of an appeal that appear to him reasonable and just.

9. A person who—



- (a) having been directed under *paragraph 8* of this Schedule to attend before the Tribunal and having had tendered to him any sum in respect of the expenses of his attendance which a witness summoned to attend before the District Court would be entitled to have tendered to him, without just cause or excuse disobeys the direction, 5
- (b) being in attendance before the Tribunal pursuant to a direction under the said *paragraph 8*, refuses to take the oath on being required by the Tribunal to do so or refuses to answer any question to which the Tribunal may legally require an answer, 10
- (c) without just cause or excuse disobeys a direction under *sub-paragraph (a)* of the said *paragraph 8* in relation to the giving of evidence or the production of a document or thing or a direction under *paragraph (b)* or *(c)* of the said *paragraph 8*, or 15
- (d) does any other thing in relation to the proceedings before the Tribunal which, if done in relation to proceedings before a court by a witness in the court, would be contempt of the court, 20

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding six months or to both.

10. If a person gives false evidence before the Tribunal in such circumstances that, if he had given the evidence before a court, he would be guilty of perjury, he shall be guilty of that offence. 25

11. The procedure of the Tribunal shall, subject to the provisions of this Act, be such as shall be determined by the Tribunal by rules made by it with the consent of the Minister for Finance and the rules shall, without prejudice to the generality of the foregoing, make provision for— 30

- (a) notifying the persons concerned of the date, time and place of the relevant sitting of the Tribunal,
- (b) enabling the persons concerned to present their cases to the Tribunal in person or through a representative, 35
- (c) the examination (on oath or otherwise as the Tribunal may determine) of witnesses before the Tribunal by the Tribunal,
- (d) the examination and cross-examination (on oath or otherwise as the Tribunal may determine) of witnesses before the Tribunal by or on behalf of the persons concerned, 40
- (e) the determination by the Tribunal whether evidence at the Tribunal should be given on oath,
- (f) the administration by the chairman of the Tribunal of the oath to witnesses before the Tribunal, 45
- (g) the announcement at a sitting of the Tribunal of the determination or determinations of the Tribunal in relation to an appeal to it, and



(h) the making of a sufficient record of the proceedings of the Tribunal.

12. (1) Subject to *subparagraph (3)* of this paragraph, the Tribunal may order that the costs and expenses of a person concerned in an appeal to it under this Act in respect of the appeal shall be paid by another person concerned in the appeal, may determine the amount of any such costs and expenses and shall, unless there is good reason for not doing so, order that the costs and expenses of a successful appellant or respondent in an appeal to the Tribunal under this Act in respect of the appeal shall be paid by the unsuccessful respondent or appellant, as the case may be, in the appeal.

(2) The amount of the costs and expenses of a person, ordered by the Tribunal under this paragraph to be paid to the person may be recovered as a simple contract debt in any court of competent jurisdiction by that person from the person ordered by the Tribunal to pay them.

(3) The Tribunal shall not order that the costs and expenses of an appellant or respondent in an appeal to it under this Act shall be paid by an owner or occupier of an agricultural land holding other than that to which the appeal relates.

13. (1) Where a member of the Tribunal has a beneficial interest in land which is the subject of an appeal under *section 8* of this Act or in any other land affected, or likely to be affected, by such an appeal, or has any other interest in the appeal which would be likely to influence him in relation to the determination of the appeal, the member shall—

(a) disclose to the Tribunal the nature of his interest,

(b) take no part in the discussion on, or consideration of, the appeal,

(c) neither vote nor otherwise act as a member of the Tribunal in relation to the determination of the appeal.

(2) For the purposes of this paragraph, a member of the Tribunal shall be regarded as having a beneficial interest in land if—

(a) he or his spouse is the owner or occupier of the land or the part owner or part occupier, whether as joint tenant, tenant in common or otherwise, with one or more other persons of the land, or

(b) he or his spouse is connected with the owner or occupier of the land or is an employer or employee or principal or agent of, or a trustee or caretaker of the land for, the owner or occupier thereof, or a person connected with such owner or occupier.

(3) For the purposes of this paragraph, an interest in land, or any other interest in an appeal under *section 8* of this Act, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person having it shall not be regarded as a beneficial interest in the land or, as the case may be, as another interest in an appeal under the said *section 8*.

(4) (a) A person who contravenes or fails to comply with a requirement of this paragraph shall be guilty of an offence and



shall be liable on summary conviction to a fine not exceeding £1,000.

(b) In any proceedings for an offence under this subparagraph, it shall be a defence for the person charged with the offence to prove that at the time of the alleged offence he did not know and had no reason to believe— 5

(i) that he had a beneficial interest in the land concerned, or

(ii) that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of this paragraph applied. 10

(c) Proceedings for an offence under this subsection shall not be initiated save by or with the consent of the Director of Public Prosecutions.

(5) A member of the Tribunal who is convicted of an offence under *paragraph (4)* of this subsection shall, on such conviction, cease to be such a member. 15

(6) Where a person who has a beneficial interest in land to which an appeal under *section 8* of this act relates contravenes or fails to comply with a requirement of this paragraph, such contravention or failure shall render invalid the determination of the appeal. 20

(7) Where a determination by the Tribunal of an appeal under *section 8* of this Act is rendered invalid by virtue of *subparagraph (6)* of this paragraph, the appeal shall be determined again by the Tribunal. 25







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## BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do dhéanamh socrú maidir le cáin, ar a dtabharfar cáin fheirme, ar thalamh talmhaíochta airithe agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis sin.

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## BILL

*(as initiated)*

*entitled*

An Act to provide for a tax, to be known as farm tax, on certain agricultural land and to provide for connected matters.

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*An tAire Comhshaoil a thíolaic,  
7 Meitheamh, 1985*

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*Presented by the Minister for the Environment,  
7th June, 1985*

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BAILE ÁTHA CLIATH:  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,  
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath  
2, nó trí aon díoltóir leabhar.

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