



## **AN BILLE UM CHÁIN FHEIRME, 1985**

### **FARM TAX BILL, 1985**

#### **EXPLANATORY MEMORANDUM**

##### **General**

The purpose of the Bill is to provide for the implementation of a farm tax on the lines of the proposal contained in the national plan "*Building on Reality 1985-1987*".

The farm tax will be based on the adjusted acreage of land and will be collected by local authorities. The Bill provides for the following

- definition of the term "adjusted acre"
- the classification of land by reference to adjusted acreage and subsequent revision of the classification
- appeals against the classifications and revisions
- the establishment of an office of Farm Tax Commissioner to carry out the initial classification and to deal with preliminary appeals and revisions
- the establishment of a Farm Tax Tribunal to deal with appeals from decisions of the Farm Tax Commissioner
- the levy and collection of the tax.

##### **Adjusted Acre**

*Section 2* defines the concept of adjusted acre upon which the classification of land will be based. *Subsection (1)* provides that an adjusted acre is an area of land with the equivalent productive potential of one acre of the best land in the state, while *subsection (2)* outlines the factors which are to be taken into account when considering the productive potential of the land. These include the range of uses to which the land can be put, access to the land, the nature of the soil, climate, the location, aspect, structure of the farm and other natural factors. In classifying land a reasonable degree of management of and investment in the land will be assumed to apply.

##### **Classification of Land**

*Section 4* requires the Farm Tax Commissioner to classify land likely to have 20 adjusted acres or more and to produce a list of farms (referred to in the Bill as "agricultural land holdings") and their adjusted acreage in each local authority area (including parts of farms for those situated in more than one local authority area) (*subsections*

(1), (2) and (3)). The Commissioner will have power to classify and list farms even if his staff have not entered on the land or have been given inadequate, false or misleading information about the land (subsection (4)). The Commissioner is required to send lists of classifications at specified intervals to the local authorities according as the classification proceeds (subsection (5)). Under section 1 a farm means all the land in the possession of the same person.

Section 17 empowers officers of the Commissioner to enter any land to carry out surveys, inspections, etc., and to receive information orally from any person on the land, or by notice, as to its ownership and occupation (subsections (1), (2) and (3)). Anyone who obstructs an officer of the Commissioner or gives false or misleading information will be guilty of an offence attracting a fine of £1,000 or up to six months imprisonment or both although it will be a defence for a person to show that they had no knowledge of the information requested or that information given was misleading or false. All officers entering land must produce a warrant to be signed by the Commissioner (subsections (4), (5), (6) and (7)). If the Commissioner's staff are hindered or obstructed in carrying out their functions under this Act, appeals against the classification and applications for revision under sections 6 and 7 of the Bill will not be entertained (subsection (8)).

Section 5 requires local authorities to display classification lists as they are received and to notify individual farmers of the details of the classification of their farms.

#### *Appeals against Revisions of Classifications*

Section 6 provides for first appeals to the Farm Tax Commissioner against the initial classification. It allows the occupier or owner of land or a local authority to appeal the particulars in the classification list specifying grounds for the appeal. In the case of the local authority, it may seek to have listed land not previously listed. Persons affected by the appeal are given rights to make representations and the Commissioner will then determine the appeals and amend the classification list, as necessary. An amendment may include amendment of the particulars of land not directly the subject of the appeal (subsections (1) to (4)). The Commissioner each year lists and conveys the results of the appeals to the local authorities who must publicise the list and inform individuals affected (subsections (5) to (9)). Amendments take effect from the date of the initial classification or, where the appeal relates to a farm omitted from the original list, from a date the Commissioner (or, on further appeal, the Tribunal or the High Court) will determine (subsection (10)) and, under section 11 (6), tax is adjusted accordingly.

Section 7 provides a facility for subsequent revision of the initial classification where circumstances have changed in the intervening period. The procedures broadly follow those of section 6, except that amendments take effect as follows

- where the Commissioner has been misled or otherwise impeded in carrying out the initial classification, from a date the Commissioner (or, on further appeal, the Tribunal or the High Court) will determine
- in other cases, from the year following that in which the request for the revision has been made.

Where the Commissioner determines that circumstances have not changed since the initial classification, he need not entertain the appeal (subsection (12)).

*Section 8* provides for appeals to a Farm Tax Tribunal. Appeal to the Tribunal will be against a determination (under *section 6*) of the Commissioner on an appeal against the initial classification of land, from a determination of the Commissioner (under *section 7*) on an application for revision and against an apportionment (under *section 3*) by a local authority of joint occupation of land and must be made within 28 days of publication of the appeals list or the revision list or notification of the apportionment. The application must be made to the Tribunal. *Subsection (4)* provides for appeal from the Tribunal to the High Court on a point of law.

*Section 26* provides for fees to be paid when appealing against the classification, seeking a revision or appealing against an apportionment.

#### **Farm Tax Commissioner**

*Section 14* provides for the establishment of the office of Farm Tax Commissioner. The Commissioner, who is to be independent in the performance of his functions, is to be appointed by the Minister for Finance for five years, which period may be extended by the Minister (*subsections (1) to (5)*). The Minister for Finance may also, with the sanction of the Minister for the Public Service, appoint persons to the staff of the Commissioner. The Commissioner will also be required to give such information to the Minister for Finance as may be requested from time to time (*subsections (7) and (9)*). The section further provides that following the expiry of the term of office of the Farm Tax Commissioner, his powers are to be vested in the Commissioner of Valuation (*subsection (12)*).

*Section 15* empowers the Commissioner to delegate any of his functions to one or more of his officers provided that he does not delegate his appellate functions in any particular case to an officer to whom he had delegated the function of deciding the initial classification in question. Any delegated functions are to be exercised under the general control of the Commissioner and the Commissioner may, at any time, decide to perform the delegated function himself.

*Section 16* empowers the Commissioner to obtain and inspect books and records held by the Commissioner of Valuation, or a local authority and also empowers him to obtain information about land ownership and occupation from the Revenue Commissioners.

#### **Farm Tax Tribunal**

*Section 8* and the *Schedule* provide for the establishment and operation of a Farm Tax Tribunal to hear and determine appeals against decisions of the Commissioner under *sections 6* and *7* of the Bill and of the local authority in making apportionments under *section 3* of farms jointly occupied. A farmer or a local authority may appeal to the Tribunal and the Tribunal is obliged to notify the parties concerned, including the Farm Tax Commissioner. The Commissioner is the respondent in appeals brought against his decisions and the local authority is the respondent in apportionment cases (*section 8*).

The *Schedule* covers the appointment and procedure of the Tribunal. The Tribunal is to consist of a chairman and a number of deputy chairmen and ordinary members all of whom are to be appointed from time to time by the Minister for Finance for a period not exceeding three years. The chairman of the Tribunal may direct that the Tribunal may act by divisions of three members to hear and determine appeals. Decisions can be by majority vote. The sittings of

the Tribunal will be in private. Witnesses, who will enjoy the same privileges and immunities as if the Tribunal were a court of law, may be called and may be directed to attend and there are penalties for failure to comply with such a direction. The procedure of the Tribunal will be determined by rules which it will make with the consent of the Minister for Finance. The Tribunal may award costs against an unsuccessful appellant. Members of the Tribunal who have a beneficial interest in the land which is the subject of appeal are debarred from taking part in a decision on the appeal and there are penalties for failure to comply with this requirement.

#### *Levy and Collection of Farm Tax*

*Section 3* defines a taxable farm as an agricultural land holding listed in the classification list which comprises not less than twenty adjusted acres. Under the definition of agricultural land holding in *section 1* of the Bill, all lands held by the same person are deemed to constitute one holding. *Subsection (2)* provides that where a holding is in joint occupation and one of the occupiers is the sole or joint occupier of another holding, the local authority or local authorities concerned will apportion the adjusted acreage between the occupiers. (*Section 1 (2)* contains some anti-avoidance measures.)

*Section 9* provides that farm tax will be charged and paid in each year by persons in the occupation of taxable farms on the date the rate of tax is prescribed (*subsections (1) to (3)*). The tax will be an amount for each adjusted acre to be prescribed by the Minister for the Environment having regard to the level of farm incomes and the yield from taxes (*subsection (4)*).

*Section 10* provides for marginal relief for taxable farms within 4 adjusted acres of the threshold of twenty adjusted acres. The relief will be as follows: four-fifths where the excess is less than one adjusted acre, three-fifths where the excess is between one and two adjusted acres; two-fifths where the excess is between two and three adjusted acres and one-fifth where the excess is between three and four adjusted acres.

*Section 11* provides that the tax will be payable annually on demand or, where the Minister for the Environment makes regulations, by instalments (*subsections (1), (2) and (3)*). Where the outcome of an appeal or application to the Commissioner or the Tribunal is pending, the farm tax will be payable on the adjusted acreage entered in the classification list at the time the notice of appeal or application is made (*subsection (4)*). If the determination of the appeal results in either a reduction or increase in the adjusted acreage, a refund must be made by either the local authority or the occupier. Where the tax is unpaid for more than two months after it becomes payable, interest at 14 per cent. per month accumulates (*subsections (5), (6) and (7)*). *Subsection (8)* allows a local authority to suspend further action to collect the tax for a specified period in cases of hardship. Where the local authority decides to do this, interest will not continue to accumulate.

*Section 12* requires a local authority to annually prepare a farm tax record showing each farmer's liability for the tax and to publicise the record. The procedure is similar to the preparation and publication of the rate books for rates.

*Section 18* provides that a local authority may recover tax and interest due through the courts or may set off the amounts due against monies the local authority may owe to the person in default.

*Section 19* provides that farm tax will carry the same preference as income tax, rates, etc. in bankruptcies and liquidations.

*Section 21* provides that the tax will automatically be a charge on land until paid but small sales of land are exempt.

#### *Other Details*

*Section 13* requires local authorities to provide for farm tax in their annual estimates of expenses.

*Section 20* requires persons buying or selling land to notify the local authorities so that adjusted acreages may be revised and there are penalties for failure to comply.

*Section 22* requires local authorities to issue receipts and certificates in respect of payment of farm tax.

*Section 23* outlines who may prosecute offences under the Bill.

*Sections 24 and 25* deal with regulations.

#### *Interim Arrangements*

Pending completion of the classification process, the Bill provides for interim arrangements as follows—

*Section 3 (3)* empowers the Minister for Finance to prescribe for any year a holding larger than 20 adjusted acres to be a taxable farm.

*Section 10* provides that marginal relief will apply to holdings within 4 adjusted acres of any interim thresholds the Minister for Finance may prescribe under *section 3 (3)*.

*Section 11 (2)* empowers the Minister for the Environment to facilitate the early issue of tax demands.

*Section 13 (2)* enables the Minister for the Environment to exempt the local authorities from providing for the farm tax in their estimates and to provide for other arrangements.

*An Roinn Comhshaoil,  
Meitheamh, 1985.*

Section 19 provides that any tax will carry the same preference as income tax rates, etc. in bankruptcy and liquidation. It may be called and may be directed to attend and there are penalties for default. It provides that the tax will automatically be a charge on land and will be paid by the owner of the land. The Minister for Finance. The Tribunal may award costs against an unsuccessful appellant. Members of the Tribunal who have a beneficial interest in the land which is the subject of appeal are disqualified from taking part in a decision on the appeal. Section 20 requires local authorities to provide for farm tax in their annual estimates of expenses.

Section 20 requires persons buying or selling land to notify the local authorities so that adjusted acreages may be revised and there are penalties for failure to comply.

Section 3 defines a taxable farm as an agricultural holding held by a person who is liable to pay farm tax. Section 4 defines adjusted acreage. Under the definition of farm tax in section 1 of the Bill, all land held by the same person are deemed to be one holding. Section 5 provides that where a holding is held by two or more persons jointly or in common, the adjusted acreage of the holding will be apportioned between the occupiers. Section 6 provides that farm tax will be charged and paid in each year by persons in the occupation of the land. The rate of tax is prescribed (subsection (1)). The tax will be an amount for each adjusted acre. Section 7 empowers the Minister for Finance to prescribe for any year a holding larger than 20 adjusted acres to be a taxable farm.

Section 10 provides that marginal relief will apply to holdings within 4 acres of a taxable farm. Section 11 empowers the Minister for Finance to prescribe the relief. Section 12 requires a local authority to annually prepare a farm tax record showing each farmer's liability for the tax and to publicise the record. The procedure is similar to the preparation and publication of the rate books for rates.

Section 13 (2) enables the Minister for the Environment to exempt the local authorities from providing for the farm tax in their estimates. Section 14 provides that the Minister for the Environment may, or, where the Minister for the Environment makes regulations, by instalments (subsection (1)). Section 15 provides that an appeal or application to the Commissioner for the Environment will be payable at no charge if the notice of appeal or application is made (subsection (4)). If the determination of the appeal results in either a reduction or increase in the adjusted acreage, a refund must be made by either the local authority or the occupier. Where the tax is unpaid for more than two months after it becomes payable, interest at 14 per cent. per month accumulates (subsections (5), (6) and (7)). Subsection (8) allows a local authority to suspend further action to collect the tax for a specified period in cases of hardship. Where the local authority decides to do this, interest will not continue to accumulate.

Section 12 requires a local authority to annually prepare a farm tax record showing each farmer's liability for the tax and to publicise the record. The procedure is similar to the preparation and publication of the rate books for rates.

Section 18 provides that a local authority may recover tax and interest due through the courts or may set off the amounts due against monies the local authority is owed. Section 19 provides that any tax will carry the same preference as income tax rates, etc. in bankruptcy and liquidation. It may be called and may be directed to attend and there are penalties for default. It provides that the tax will automatically be a charge on land and will be paid by the owner of the land. The Minister for Finance. The Tribunal may award costs against an unsuccessful appellant. Members of the Tribunal who have a beneficial interest in the land which is the subject of appeal are disqualified from taking part in a decision on the appeal. Section 20 requires local authorities to provide for farm tax in their annual estimates of expenses.

Section 12 requires a local authority to annually prepare a farm tax record showing each farmer's liability for the tax and to publicise the record. The procedure is similar to the preparation and publication of the rate books for rates.

Section 18 provides that a local authority may recover tax and interest due through the courts or may set off the amounts due against monies the local authority is owed.