



SEANAD ÉIREANN

**AN BILLE AIRGEADAIS (UIMH. 2) 2007
FINANCE (NO. 2) BILL 2007**

**MOLTAÍ COISTE
COMMITTEE RECOMMENDATIONS**

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AN BILLE AIRGEADAIS (UIMH. 2) 2007
—AN COISTE
FINANCE (NO. 2) BILL 2007
—COMMITTEE STAGE

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Recommendations

SECTION 1

1. In page 3, before section 1, to insert the following new section:

“Amendment of
section 92B
(residential property
first time purchaser
relief) of Stamp
Duties
Consolidation Act
1999.

1.—(1) Section 92B of the Stamp Duties Consolidation Act 1999 is amended—

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

“(2) Stamp duty shall not be chargeable under or by reference to paragraphs (2) to (6A) of the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ or clauses (ii) to (vii) of paragraph (3)(a) of the Heading ‘LEASE’, as the case may be, in Schedule 1 on any instrument to which this section applies.”

(b) in subsection (3)—

(i) in paragraph (a) by substituting “first time purchaser,” for “first time purchaser, or”,

(ii) in paragraph (b) by substituting “during that period, and” for “during that period.”,

and

(iii) by inserting the following after paragraph (b):

“(c) any instrument, executed on or after 1 January 2007 and on or before the date of the passing of the *Finance (No. 2) Act 2007*, that does not contain such a statement as is referred to in paragraph (a) or (b)—

(i) where—

(I) section 92 applies to that instrument, and

(II) the purchaser has complied with, and has undertaken to continue to be bound by, the conditions, liabilities and obligations under section 92 and has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the condition set out in such a statement as is referred to in paragraph (a) notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section,

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or

(ii) where—

(I) had that instrument contained a statement such as is referred to in paragraph (b), such statement would have been true and correct, and

(II) the purchaser has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the conditions set out in such a statement as is referred to in paragraph (b) notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section.”,

(c) in subsection (4)(a) by deleting “the difference between” and “and the amount of duty which was actually charged”,

and

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

“(9) Where, by virtue of the amendment of this section by the *Finance (No. 2) Act 2007*, an instrument is one in respect of which stamp duty is not chargeable under or by reference to any of the paragraphs or, as the case may be, clauses referred to in subsection (2), the Commissioners, on a claim being made to them in that behalf and on the conditions set out in subsection (10) being satisfied, shall cancel and repay such duty paid as would not have been charged had this section been so amended before the instrument was executed.

(10) The conditions required by this subsection are that the purchaser (in this subsection referred to as the ‘claimant’), when making a claim for repayment, shall produce to the Commissioners—

(a) the stamped instrument,

(b) a declaration made in writing by the claimant, in such form as the Commissioners may specify, confirming to the satisfaction of the Commissioners that—

(i) where the instrument is one to which this section applies by virtue of paragraph (a) or (b) of subsection (3), the claimant has complied with the conditions, liabilities and obligations under either or both this section and section 92, as the case may be, and has undertaken to continue to be bound by those conditions, liabilities and obligations,

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(ii) where the instrument is one to which subsection (3)(c)(i) applies, the claimant has complied with, and has undertaken to continue to be bound by, the conditions, liabilities and obligations under section 92 and has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the condition set out in such a statement as is referred to in paragraph (a) of that subsection notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section, or

(iii) where the instrument is one to which subsection (3)(c)(ii) applies, the claimant has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the conditions set out in such a statement as is referred to in paragraph (b) of that subsection notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section,

and

(c) such information as the Commissioners may reasonably require for the purposes of this subsection.

(11) A reference in subsection (3)(c) or subsection (10) to the purchaser, shall be construed as including a reference, where there is more than one purchaser, to each and every one of the purchasers.”.

(2) This section applies as respects instruments executed on or after 1 January 2007.”.

—*Senators Michael Finucane, John Paul Phelan.*

[*Acceptance of this amendment involves the deletion of section 1 of the Bill.*]

2. In page 3, subsection (1), between lines 9 and 10, to insert the following:

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

“(1) In this section first time purchaser means—

(a) (i) a person, or

(ii) as respects instruments executed on or after 1 January 2007, a person, being an individual,

who, at the time of the execution of the instrument to which this section applies, has not individually previously purchased (other than the purchase of a leasehold interest by way of grant or assignment for any term not exceeding one year), or previously built—

(I) directly or indirectly on his or her own behalf, or

(II) as respects instruments executed on or after 1 January 2007, in a fiduciary capacity,

another dwellinghouse.

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- (b) a person who, having previously jointly—
- (i) purchased,
 - (ii) built directly or indirectly on his or her own behalf, or
 - (iii) as respects instruments executed on or after 1 January 2007, built in a fiduciary capacity,
a dwellinghouse, has sold his or her interest in that dwellinghouse to the person with whom he or she had jointly—
 - (I) purchased,
 - (II) built directly or indirectly on his or her own behalf, or
 - (III) as respects instruments executed on or after 1 January 2007, built in a fiduciary capacity,
the dwellinghouse within 3 years of the initial purchase or construction as the case may be, or
- (c) for the purposes of this subsection—
- (i) dwellinghouse includes—
 - (I) a dwellinghouse or part thereof,
 - (II) an apartment or part thereof, and
 - (III) a site for development or part thereof,
 - (ii) any dwellinghouse or apartment taken under a conveyance or transfer operating as a voluntary disposition within the meaning of section 30 of the Principal Act shall be deemed to have been taken by way of purchase where that conveyance or transfer was executed on or after 1 January 2007, and
 - (iii) any part of a dwellinghouse or apartment taken under a conveyance or transfer operating as a voluntary disposition within the meaning of section 30 of the Principal Act shall be deemed to have been taken by way of purchase where that conveyance or transfer was executed on or after 1 January 2007.”.”
—*Senators Michael Finucane, John Paul Phelan.*

3. In page 3, lines 26 and 27, to delete “31 March 2007” and substitute “1 January 2007”.

—*Senator Joe O’Toole.*

4. In page 5, subsection (2), line 49, to delete “31 March 2007” and substitute “1 January 2007”.

—*Senator Joe O’Toole.*

[SECTION 2]

SECTION 2

5. In page 6, before section 2, to insert the following new section:

“2.—The rate of stamp duty shall be calculated according to the table in *Schedule 1**.”.

—*Senators Michael Finucane, John Paul Phelan.*

[*This is the appropriate reference if amendment no. 6 is accepted.]

NEW SCHEDULE

6. In page 6, after line 4, to insert the following:

“SCHEDULE 1

STAMP DUTIES

Rates of Stamp Duty payable in respect of conveyances of residential property

Type of purchaser	Value of dwellinghouse or apartment	Rate of Stamp Duty payable
First-time purchaser of second hand property	first €450,000	0%
	balance of purchase price	9%
First-time purchaser of new property	No change	No change
Other purchasers, owner-occupiers and investors of new or second hand property	first €100,000	0%
	next €350,000	5%
	balance of purchase price	9%

”
—*Senators Michael Finucane, John Paul Phelan.*