S.I No.: 514 of 2003

O R D E R

entitled

Finance Act 2003 (Commencement of Section 142) Order 2003

Made by the Minister for Finance.

PRN: 1132

Price: 76c

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Finance Act 2003 (Commencement of Section 142) Order 2003

I, Charlie McCreevy, Minister for Finance, in exercise of the powers conferred on me by section 142(2) of the Finance Act 2003 (No. 3 of 2003), hereby order as follows:

1. This Order may be cited as the Finance Act 2003 (Commencement of Section 142) Order 2003.

2. In this Order “Principal Act” means the Stamp Duties Consolidation Act 1999 (No. 31 of 1999).

3. The following days are appointed for the coming into operation of the provisions of subsection (1) of section 142 of the Finance Act 2003 -

(a) as respects section 159A of the Principal Act, the day of the making of this Order,

(b) as respects section 159B of the Principal Act, the 1st day of November 2003, in so far as it relates to repayments made on or after that day (other than repayments made in respect of claims for repayment made before 1 November 2003 by virtue of subsections (4)(b) and (7) of section 29, subsections 4(b) and

(7) of section 53 or section 117(2)(b) of the Principal Act and without prejudice to subsection (2) of section 159B of the Principal Act), and

(c) as respects section 159C of the Principal Act, 1 January 2005.

GIVEN under my Official Seal,

31 October 2003.

Charlie McCreevy,

Minister for Finance.

Explanatory Note – Section 142

(*This note is not part of the Instrument and does not purport to be a legal interpretation*.)

This Order appoints the coming into operation of subsection (1) of section 142 of the Finance Act 2003 in the following manner:—

(a) in relation to section 159A of the Stamp Duties Consolidation Act 1999, on the date this Order is made (31 October 2003). Except where there is a pre-existing provision containing a shorter time limit for the making of a claim for repayment, section 159A restricts repayments of stamp duty to valid claims made within 4 years of, inter alia, the date an instrument is stamped by the Revenue Commissioners. A valid claim is one where the Revenue Commissioners have been provided with all the information necessary to enable them establish the extent of the overpayment. The change is introduced subject to transitional arrangements,

(b) in relation to section 159B of the Stamp Duties Consolidation Act 1999, as regards repayments made on or after 1 November 2003 other than those repayments made in respect of claims for repayment made before 1 November 2003 by virtue of subsections (4)(b) and (7) of section 29, subsections (4)(b) and (7) of section 53 or section 117(2)(b) of the Stamp Duties Consolidation Act 1999 which will be repaid at the rate of interest applicable under those sections.

Under section 159B interest on a repayment will only be paid where the repayment has not been made by the Revenue Commissioners within the period of 183 days of receipt of a valid claim for repayment and then only from the expiration of that period. An exception to this general rule is that interest will be paid from the date of the event giving rise to the repayment for valid claims arising from repayment claims made where the Revenue Commissioners have made an error in the operation of stamp duty. The section also provides that the rate of interest on such repayments is at the rate of 0.011 per cent per day or part of a day, and

(c) in relation to section 159C of the Stamp Duties Consolidation Act 1999, with effect from 1 January 2005. Section 159C restricts the period within which the Revenue Commissioners may make enquiries or raise assessments in relation to underpayments of stamp duty to a period of 4 years from, inter alia, the date an instrument was stamped by Revenue. This restriction does not apply where the underpayment arises from fraud or neglect on the part of the taxpayer.