GUIDE TO THE LEGISLATIVE PROCESS

Revised 2007
Revenue’s role in the legislative process in relation to tax and customs law is unique and highly valued. The purpose of Revenue’s ‘Guide to the Legislative Process’ is to set out the nature of the legislative function as it applies to Revenue and to provide clear guidance and accessible instructions on its implementation. This is the second edition of our Guide, first published in 1992.

The publication of this Guide comes at an opportune and auspicious time coinciding as it does with the establishment of the Revenue Legislation Services (RLS) which brings together in the new Revenue structure all staff involved in the development, drafting and interpretation of tax and customs legislation. This new edition updates the procedures in the legislative process and in addition contains new material on the role of the Office of the Parliamentary Counsel to the Government, The Bills Office, and the preparation of legislation.

The legislative process itself is intrinsically one of continuous change and it is intended that the guide will be updated on a regular basis on our Revnet and the Revenue website to reflect any future changes.

I would like to make special mention of the generous assistance provided by the Department of Finance, the Office of the Parliamentary Counsel to the Government, and to the Bills Office in the Houses of the Oireachtas in the preparation of this new edition of the Guide.

In acknowledging the tremendous amount of work that has been undertaken by RLS staff in the preparation of the guide, I would also like to pay tribute to the work done in Revenue on an ongoing basis to ensure that tax and customs legislation is produced in very tight timescales and to very high standards.

Josephine Feehily
Revenue Commissioner
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Chapter 1

Outline of the Legislative Process and the Offices of the State
Ireland has been an independent parliamentary democracy since 1922. It has a written Constitution – the current one dates from 1937 and has 23 separate Acts amending it – and since 1 January 1973 the State has been a member of the EU. The head of State is the President but this Office is non-executive in nature and the President, with few exceptions, is required under the Constitution to act on the advice of the Government.

The Constitution is the basic law of the land. It outlines the structure of Government and enumerates the rights of individuals. The Constitution binds the system but is, in itself, in turn, interpreted by the Courts. It can only be amended if a Bill to amend it has been passed by both houses of Parliament and is subsequently approved of by a simple majority of the people voting at a referendum.

There are three main branches of Government, each independent but intrinsically interdependent, as follows:

**Legislature (Oireachtas)** - this is the National Parliament and consists of the President and two houses, the Lower House - Dáil Éireann (the House of directly elected representatives of the people) and the Upper House - Seanad Éireann (Senate).

**Executive (Government)** - this is the Administration of the day with executive responsibility for the running of the State through all Government Departments and other agencies.

**Judiciary (the Courts)** - these are independent in the exercise of judicial functions and are subject only to the Constitution and the law (including EU Law). Fundamental rights are set out in the Constitution and, in addition, the Courts have identified other Constitutional rights not expressly specified in the Constitution. In interpreting and applying any statute or rule of law the Courts, in so far as is possible and subject to the rules of interpretation and application, are required to do so in a manner compatible with the State's obligations under the European Convention on Human Rights (see European Convention on Human Rights Act 2003).

**What is Legislation?**

Legislation is the product of the law-making process of the State. The principal characteristic of legislation is that it reduces rules to a written and fixed verbal form. In Ireland, subject to the obligations of EU Membership, the Oireachtas has the sole and exclusive power to make laws for the State.
Legislation falls into two categories:

1. **Primary Legislation** - consisting of Acts of the Oireachtas

2. **Secondary Legislation** - legal measures the making of which are delegated by the Oireachtas (in primary legislation) to another body (e.g. Minister for Finance, Revenue Commissioners). Because of the role of the Oireachtas (Dáil, Seanad and President) in the Constitution, there are strict limitations as to what can be delegated by an Act. There is a body of case law relating to this matter but basically where it is appropriate for an Act to delegate to another authority, the general principles and policies governing the operation of the delegation have to be set out in the primary legislation. In some cases (e.g. making fees orders) the principles and policies may be very simple and straightforward. In other cases they can be detailed and, by their nature, restrictive of what can be done constitutionally by way of secondary legislation.

Before a Government Bill is initiated in the Dáil or Seanad its contents must first secure the formal approval of the Government. In advance of this a process of consultation with Government Departments and other interested groups will usually have taken place and occasionally the Government will publish a Green Paper which will be a discussion document setting out its ideas and inviting responses and suggestions. Arising out of this and indeed other considerations on the need for a new Bill, a proposal containing what is known as the ‘Heads of the Bill’ will be presented to Government with the aim of securing official approval to proceed with formal drafting of the Bill.

**Office of the Parliamentary Counsel**

Bills must be drafted in a specific manner in what is often a complex and detailed format. This specialised work is undertaken on behalf of Departments by the Office of the Parliamentary Counsel to the Government (OPC). The OPC is a constituent part of the Attorney General’s Office (AG). It is important to note the vital role of the OPC in the entire legislative function. The Cabinet Handbook, which deals with Cabinet procedure, provides that no Government Bill can be initiated in either the Dáil or Seanad unless it has Cabinet approval. A draft Bill will not be placed on the agenda for Cabinet unless it has been drafted and cleared by the OPC.

With regard to Revenue, the legislative process differs very considerably from that prevailing in Departments. The Cabinet Handbook requirement for the preliminary clearance by Cabinet of the Scheme of a Bill with Heads does not apply to the Finance Bill or other Money Bills (as defined by Article 22.1 of the Constitution). Revenue is unique in that, with its expertise, it can provide provisions to an extremely high standard which in many instances require minimal, if any, changes by the OPC. The reasons for this will be expanded upon in the next Chapter; however, suffice to say that taxation is a highly technical subject which demands the skills and experience which are most readily available in Revenue. It should be noted, however, that all Revenue legislation other than Commissioners Regulations must nonetheless secure the official approval of the OPC.

A more comprehensive look at work of the OPC is contained in Chapter 4.
**Stages of a Bill**

The legislative process is about converting a political commitment or decision into an Act of the Oireachtas. Once the Bill has been drafted and initiated it will proceed through the Oireachtas undergoing progressive refinement, adjustments and amendments, but all the while strictly following a number of well-defined and long-established stages before it is enacted into law.

There are five principal stages in the legislative process, as follows:

**First Stage:** the permission of the House is obtained to introduce the Bill i.e. to have it printed and circulated. This is not generally required for Government Bills which are printed and circulated following presentation to the Ceann Comhairle or Cathaoirleach. As a general rule Bills may be initiated in either the Dáil or the Seanad. However all Money Bills dealing with taxation and expenditure (such as the Finance Bill), and also Bills to amend the Constitution, can be initiated only in the Dáil. It is for the Ceann Comhairle (speaker of the Dáil) to certify if a Bill is a Money Bill (Article 22 of the Constitution). The certification is made prior to publication of the Bill concerned.

**Second Stage:** this allows the principal provisions of the Bill to be considered and debated on the general question of whether the law should be amended as broadly envisaged. The House discusses what the Bill contains and also what might be relevantly included.

**Third (Committee) Stage:** the general idea of the Bill having been accepted, this allows detailed section-by-section examination and improvement of what is proposed. Modification of the proposed Bill, consistent with its general principles, can be made by way of formal amendments.

**Fourth (Report) Stage:** a review of the Bill as amended at the Committee Stage. Consideration is restricted to amendments tabled that arise only from proceedings at the Committee Stage or amendments of a drafting nature.

**Fifth (Final) Stage:** this completes the process in the House, whether the Bill, in its current form, would constitute good law. The House considers the question ‘that the Bill do now pass’.

When the Bill has passed all stages in the first House, it is then sent to the other House - in the case of a Money Bill from the Dáil to the Seanad. The Second, Third, Fourth and Fifth stages of the Bill (as passed by the first House) are repeated in the other House. However in relation to Money Bills the Seanad has only the capacity to make recommendations on what is proposed and is not empowered to make amendments as such to the Bill. When a Bill has passed through the second House (the Seanad in the case of a Money Bill) a message is sent to the first House. Specific provisions are provided for by the Constitution in respect of a Money Bill not accepted by the Seanad as passed by the Dáil (see Article 23 of the Constitution).
**Enactment**

As a general rule, once a Bill has been passed by both Houses the Taoiseach presents a vellum copy, prepared by the Bills Office, to the President for signing. This enacts it into law and the signed text is enrolled in the Office of the Registrar of the Supreme Court. A Bill to amend the Constitution and passed by both Houses cannot be presented to the President for signature unless it has been approved by a simple majority of the people voting at a referendum.

**The Bills Office**

The Bills Office operates under the aegis of the Houses of the Oireachtas and it has the responsibility of preparing Bills for publication, lists of amendments, and issuing updated texts of a Bill after each Stage during its passage through the Houses. It deals with the business of actually printing the Bill. The Bills Office is based in Dáil Éireann and provides the executive secretariat responsible for the business of managing the process of primary legislation through the House. It has a crucial function to play in the administration and co-ordination of the actual production of legislation, including printing, and it retains special expertise in the role of assisting the Ceann Comhairle and Committee Chair ensure that all the requirements of Standing Orders are properly fulfilled at all stages of a Bill’s progress through the Dáil. In a similar function to the Bills Office, the Seanad Office deals with issues of order and prepares amendments in respect of Bills before the Seanad.

The Bills Office can be contacted at Dáil Éireann, publicbills@oireachtas.ie

**Standing Orders of Dáil Éireann**

The Standing Orders, the most recent edition published in 2002, comprises the rules and procedures of Dáil Éireann. These govern the everyday workings of the Dáil and cover various topics including Sittings of the Dáil, the Order Paper, Parliamentary Questions, Rules of Debate, Committees, and Bills etc. The main provisions governing Bills are set out in Standing Orders 116 to 146. These Orders should be read because they detail such matters as the various stages a Bill has to go through in order to become an Act, the rules governing amendments and, most importantly, the procedures governing ‘Bills involving the imposition of charges upon the people’ or on the Revenue.

Standing Orders of Dáil Éireann, also those for Seanad Éireann, are available online at www.oireachtas.ie

**Further Information on the Legislative Process**

On the pre-legislation process, the Cabinet Handbook (current edition 1998) should be consulted. It deals with guidelines for Ministers, Government meetings and instructions for the preparation and submission of memoranda for Government. It also includes chapters on proposals for legislation (Chapter 4) and Orders (Chapter 5). It explains the procedures (not applicable to Money Bills) for the circulation by a Department of the draft scheme of a Bill to other Departments (including the Attorney General) for observations before Cabinet approval that the scheme of a Bill be sent to the Attorney General for drafting by the OPC. The Handbook also covers approval for publication by the
Government of a Bill as drafted by the OPC. Guidelines (prepared by the OPC as part of the Attorney General’s Office) for Departments in respect of the preparation of the General Scheme of a Bill are set out in Appendix II to the Handbook.

The Training Centre of the Department of Finance (Centre for Management & Organisational Development - CMOD) offers a 2-day Introductory Course on the Legislative Process which usually involves guest speakers from the OPC and the Bills Office.

It is important to note that a huge volume of public legislative information is available online. For Irish legislation all the public legislative material relevant to current legislative administration is fully accessible on the www.oireachtas.ie website. The Attorney General’s website contains a comprehensive database of post-1922 legislation (see: www.irishstatutebook.ie). It also contains a Chronological Table of the Statutes showing post-1922 amendments to statutes. Another very useful online source is the British and Irish Legal Information Institute site at www.bailii.org.co which provides comprehensive up to date legislative materials of both jurisdictions.
Chapter 2
Revenue and Legislation
The task of producing legislation within Revenue is undertaken by the Revenue Legislation Services (RLS) which embody an experienced and skilled legislative capability across all taxheads (Direct Taxes such as Income Tax, Corporation Tax, Capital Gains Tax, Capital Acquisitions Tax and Stamp Duty, and Indirect Taxes such as Excises, Value-Added-Tax, and Customs).

RLS has a unique role in the formulation of complex tax and duty legislation. This is largely due to Revenue's core function of collecting taxes. Revenue is also involved in many other related aspects of the administration of government. Whilst matters such as income tax are direct forms of taxation over which Revenue works with the Department of Finance, RLS also works closely with other Government Departments on issues such as, for example, environmental and industrial policy that may contain tax implications. Whereas most Government Departments have their legislation drafted by the Office of the Parliamentary Counsel (OPC) by supplying Heads of a Bill which involve considerable input by the OPC in drafting, Revenue on the other hand supplies drafts in as near complete form as possible to the OPC. There are a number of specific reasons for this:

(i) Taxation is a very specialised subject requiring high standards of skill and experience unique to Revenue itself.

(ii) Finance Bills are a legislative imperative that must be prepared annually for the effective administration of the finances of the State. This makes them very different from most other Bills that may be rescheduled at any time for any number of reasons.

(iii) The legislative timescale within which a Finance Bill has to be enacted dictates that it must be produced and passed into law within four months of the Budget Day Financial Resolutions.

Normally a few provisions in the Finance Bill each year - essentially non-tax items - are drafted by the OPC directly on instructions from the Department of Finance. These are normally drafted by the OPC in the same manner as for any other Bill. The dominant element of the workload for RLS each year, and, indeed, their primary focus, is dedicated to the production of the Finance Bill on behalf of the Department of Finance. This Bill gives effect to the taxation provisions of the Budget and the Government's taxation programme for the year. Like any other proposed legislation the Finance Bill is steered through the Oireachtas by the Department of Finance in the manner described in Chapter 1. Important legal instruments which impact on the Finance Bill are The Constitution, Provisional Collection of Taxes Act 1927, and Interpretation Act 2005.
The Constitution of Ireland 1937

This makes specific reference to the legislative process of the State in relation to Finance Bills – these are classified as ‘Money Bills’. The relevant Articles are:

Article 20 Stating that a Money Bill may only be initiated in Dáil Éireann and may not be amended by Seanad Éireann.

Article 21 Stating that, if a Money Bill has not been returned by Seanad Éireann to the Dáil within 21 days, then it shall be deemed to have been passed by both Houses of the Oireachtas.

Article 22 Defining what a Money Bill is and providing that the Ceann Comhairle of Dáil Éireann has the function of deciding whether or not a Bill constitutes a Money Bill.

The Article reads as follows:

1˚ A Money Bill means a Bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public moneys; the raising or guarantee of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.

2˚ In this definition the expressions “taxation”, “public money” and “loan” respectively do not include any taxation money or loan raised by local authorities or bodies for local purposes.

Article 25 Providing for the signing of Bills into law by the President.

Provisional Collection of Taxes Act 1927

This Act forms another cornerstone to the legislative process as it affects RLS. Its original ‘Long Title’ explains its content:

‘An Act to give statutory effect for a limited period to resolutions of the committee on finance of Dáil Éireann imposing, renewing, varying, or abolishing taxation, and to make provision with respect to payments, deductions, assessments, charges, and other things made or done on account of any temporary tax in anticipation of the renewal of the tax by the Oireachtas.’

The Act makes ‘limited period’ provision for the budgetary mechanism known as ‘Financial Resolution’ (FR), which is, in effect, temporary legislation. FRs may be passed by the Government on Budget night to bring a taxation measure into immediate effect (usually to increase the excise duties on such products as tobacco, alcohol and mineral oils).

Furthermore, the Act also provides for FRs to remain in force for up to four months from their introduction. This is to allow the government sufficient time in which to give the FRs permanent effect in the Finance Act.
Interpretation Act 2005

The Interpretation Act 2005 comes into operation on 1 January 2006. Subject to the saving provisions in section 3, it repeals the previous Interpretation Acts which relate to statute law, including the Interpretation Act 1937.

This Act applies to all Acts of the Oireachtas and makes provision for 'the interpretation and application of Acts of the Oireachtas and of Statutory Instruments made under such Acts.' Amongst other matters, it provides guidance with regard to the following matters:

- citation of Acts of the Oireachtas,
- commencement of Acts and instruments,
- certain general rules of construction of particular words and expressions. This is helpful on such matters as the meaning of the word “person”, the use of the singular and plural in Acts, the significance (or lack of significance) of marginal notes, etc.,
- effect of repeals and revocations,
- interpretation of particular expressions and words. This is set out in the Schedule to the Act.

The Budget

The Budget formally initiates and provides much of the basis of the annual calendar of legislative tasks of RLS. Before exploring the actual Budget process in detail, however, it is necessary to clarify how the Budget comes about and also to illustrate the involvement of RLS in this process.
This chapter briefly sets out some of the many strands of influence that come to bear continuously on the evolution of taxation policy and the formation of taxation legislation and which reflect themselves most clearly in the decisions on Budget Day leading on to the Finance Bill. This will be done from two points of view, firstly Revenue’s, and secondly the broader political environment, although it is important to understand both are intrinsically inter-related.

**Tax Strategy Group**

A significant development in recent years affecting the examination of taxation policy, among other things, has been the work of a Group known as the Tax Strategy Group (TSG). Its terms of reference are as follows:

- To examine and develop proposals for measures in the areas of taxation, PRSI and levies, for Budget and Finance Bill within agreed Government parameters for the overall Budget position and in the context of the framework of a medium term and longer term strategy set out in the Government’s programme, and

- To examine the strategic approach for a general social welfare package and to assess the interaction of income tax/PRSI/levies proposals with social welfare proposals including child income support, and in particular the impact of this interaction on the labour market and income distribution.

This Group is chaired by the Department of Finance with membership comprising senior officials and advisors from the Departments of Finance, Taoiseach, Enterprise Trade and Employment, Social Community and Family Affairs, and the Revenue Commissioners. The Group meets regularly to consider papers on various tax and social welfare issues. The outcome of the Group’s discussions inform the Budget and Finance Bill decision-making process. From Revenue’s point of view, TSG has an important role in that it provides a forum for issues which may subsequently be the subject of legislation.

**Finance Bill Tracking List**

In the early autumn the Department of Finance issues a Tracking List to monitor and supervise its management of items and elements that may be the subject of legislative action in the Finance Bill. This is an important document and is an indicator of the possible emerging shape of the upcoming Bill. It may reflect aspects of the work of the TSG however it has a broader dimension in relation to the development of active management of the Bill by the Department of Finance. It is also useful in assisting RLS to track progress on legislative items.
Preparation of Papers by RLS

Sometimes preceding but often arising directly out of discussions at TSG level, some branches within RLS may undertake the preparation of papers outlining options in relation to possible proposals for the Budget.

RLS Network

RLS has recently established a network consisting of experts examining, among other things, cross-taxhead issues and the interaction of single taxhead legislative proposals with other taxheads.

Statistics Branch of Strategic Planning Division

A vital internal source of information for Government and Revenue affecting taxation policy is the work of the Statistics Branch of Revenue’s Strategic Planning Division. This Branch prepares a wide range of statistical data including forecasting, monitoring and ongoing analysis of taxes and duties throughout the year. In addition, in the immediate period prior to the Budget, Statistics Branch provides the TSG and the Department of Finance with a ready-reckoner to calculate the probable revenue impact of key tax variables. The data can be an important input to the Budget and Finance Bill process.

The Estimates Process

In early autumn each year the Department of Finance requests estimates of the amount of each tax to be collected in the following year. Each area in Revenue involved in the collection process provides a forecast of how much is likely to be realised under each taxhead. In doing so account is taken of a variety of factors including macro-economic indicators such as the projected changes in numbers at work, inflation, interest rates, company profitability, and ‘once off’ factors such as, for example, yields from special audits or investigations and new or improved collection procedures. The assumptions underlying the macroeconomic indicators are provided by the Department of Finance. Also taken into consideration are international influences such as oil prices, trends in the economies of key neighbouring countries and so on. The ‘Estimates’ letter provides the Department of Finance and the Government with a basis on which to construct their fiscal strategy for the coming year.

The Department of Finance uses the estimates of receipts as supplied by Revenue and the estimates of projected expenditure for the coming year supplied by all Government Departments in the months leading up to Budget Day (which usually falls on the first Wednesday of December) to frame the Budget arithmetic.

In tandem with this process, formal legislative proposals developed by each relevant Branch in RLS are submitted to their respective counterparts in the Department of Finance. These proposals set out the issues Revenue feels should be considered by Finance for legislation in the upcoming Budget and Finance Bill, and may sometimes include the initial suggested draft legislation involved. The proposals are designed to make a case for the intended changes. Some of the matters will have already been dealt with at the level of the TSG or in correspondence; others will need to be elaborated upon. Ultimately, however, the decision on whether or not to advance any proposal rests with the Minister and Department of Finance. Proposals may be complex or have wider implications and therefore their examination and consideration at this stage can take some time to complete. It is not always necessary to await formal approval before commencing work on the drafting of the legislation. Efforts should be made at an early stage in the process to establish good lines of understanding and communications with officials in other Departments concerned as this will help to speed up the process.
The second important influence on the formation of taxation policy is the broader political environment. This is a summary phrase for describing the political, social and economic forces which are constantly at play in shaping decisions on tax policy. This is the working reality of contemporary modern government. In a world increasingly saturated with information and progressively more geared toward achieving greater standards of public policy the decisions of Government are a matter of constant scrutiny and accountability. Taxation policy has become an issue of very considerable importance and many interested parties and elements have come to try to exert greater influence over how it is devised. Some of the more prominent elements will be briefly outlined in the following paragraphs.

The Government of the day

The Government is the key driving force affecting all legislative decisions. While it is the Dáil that approves the composition of the Government on the nomination of the Taoiseach, it is the Taoiseach who under the Constitution decides which portfolio each Minister of the Government gets. Subject to the Government acting on the basis of collective Cabinet responsibility, it is the Minister for Finance who is directly responsible for the Budget and Finance Bill. The disposition of the Minister to taxation policy will therefore be a matter of considerable importance. At the forefront remains the basic conviction within Government that taxation measures are a key instrument of economic policy.

Special Interest Groups

Special interest groups exert a significant influence on taxation policy. Examples of such Special Interest Groups are the Irish Business and Employer’s Confederation (IBEC), Vintners Federation of Ireland, Construction Industry Federation (CIF), the main farmers’ representative groups, the trade unions, a wide range of voluntary and community groups, and a large number of professional and academic bodies.

As taxation policy is primarily a matter for the Department of Finance RLS has only limited direct contact with special interest groups. On occasions when RLS do meet representatives of special interest groups separately from the Department of Finance it is usually to discuss particular issues in relation to taxation that are of a technical nature.
Pre-Budget Submissions

One manifestation of the work of special interest groups in trying to influence taxation policy happens in the months leading up to the Budget and takes the form of what have become known as Pre-Budget Submissions. The Department of Finance is the principal focus for these submissions. It may refer some of these submissions to RLS for observations and evaluation. These submissions can contain useful suggestions for the improvement of the tax system including the correction of unintended effects of the existing legislation. Generally, however, they are aimed at easing the tax burden of the parties they represent.

The Irish Courts

The legislation which is passed into law by the Oireachtas is subject to interpretation by, and may be challenged in, the Irish Courts and ultimately in the European Court of Justice (ECJ). This is increasingly the case. The activity of highly specialised legal and financial expertise in engaging the legislative framework is reaching ever more demanding standards that directly affect the work of RLS.

The stages in which our legislation can be considered by the Courts are as follows:

- Assessments/estimates made on taxpayers by the Revenue Commissioners can be challenged through the Appeals system.
- If the taxpayer is not satisfied with the outcome of an appeal the appeal can be brought before the Circuit Court de novo. This option is not open to the Revenue except in the case of Capital Acquisitions Tax. However both the taxpayer and Revenue have the option of referring a case to be stated for the opinion of the High Court on a point of law (note: different appeal provisions apply to Excise and Customs matters).
- Where either the taxpayer or Revenue is not satisfied with the judgement of the High Court on the Case Stated they may appeal to the Supreme Court, again on a point of law.

On occasion the decisions of the Irish Courts give rise to consideration of new tax legislation. Attention should also be paid to decisions of the UK Courts. Because our legal codes are similar in significant respects it is not uncommon for decisions of the UK Courts to be noted by our own tax practitioners and to become the subject of claims or legal challenges here. This is notably so in relation to UK VAT Tribunal decisions.

EU Law

Since our accession to the EU the Law of the EU is having an ever greater influence on domestic legislation including taxation. This impacts on RLS by obliging it, firstly, to transpose EU Law into Irish domestic legislation and, secondly, to ensure Irish domestic law conforms to EU Law. These aspects are now considered in greater detail.

Under former Article 189 of the Treaty of Rome (now Article 249 of that Treaty as renumbered) the European Parliament acting jointly with the Council, the Council, and the Commission have the following powers:
• to make Regulations;
• to issue Directives;
• to take Decisions;
• to make Recommendations;
• to deliver Opinions

**Regulations**

The Regulation is the most comprehensive form of EU legislation in its scope, its sphere of application and its legal effect. At national level its closest analogy is to an Act of the Oireachtas. It sets down binding rules applicable generally throughout the whole jurisdiction. It is very commonly used and it is important to remember that it is binding in its entirety - a Member State cannot pick and choose those parts it accepts. As it is directly and immediately applicable in its entirety in all Member States, it is neither necessary nor authorised to reproduce EU Regulations within our legal code. The only discretion the Member State normally would have would be issues left to its discretion by the Regulations. In many cases the Member State is obliged to provide or do certain things but the Regulations leave it to the discretion of the Member States as to how it is to be done - for example, imposing some form of sanction for breaching the Regulations or providing for authorised officers to ensure compliance with them.

**Directives**

Directives are binding on Member States. Once adopted at EU level Member States are required to implement Directives at national level. This may require an Act of Parliament, a statutory instrument, a change in administrative practice or, in some cases where national law already conforms with the Directive's objective, no response at all. Whether the national response is adequate in terms of the Directive's requirements or not is of course a matter that can be judicially reviewed at national or EU level. It is important to note that, while Member States are obliged to secure the EU objectives as set down in the Directive, how they accomplish this is a matter for themselves.

VAT & Excise legislation has to be framed in accordance with the provisions of the Sixth and other EU VAT Directives and the EU Excise Directives. Any departures from these provisions in our national legislation are invalid unless a specific derogation has been obtained from the EU.

**Decisions**

A Decision differs from a Regulation in that it is limited to a specific and defined number of natural or legal persons and it has to affect the legal rights and obligations of the person(s) to whom it is addressed. A Decision is binding in its entirety and not just as to the results to be achieved. The majority of Decisions are issued by the Commission and this reflects their use as instruments for the detailed implementation of EU Treaties.
Recommendations and Opinions

Recommendations and Opinions have no binding force in law. Although they may be addressed to individuals or undertakings, they are most frequently addressed to Member States. The distinction between the two measures is that Recommendations are made on the issuing authority’s own initiative and usually contain suggested courses of action, whereas Opinions are frequently given in response to a request or initiative from elsewhere and give the institution’s thinking on a factual or legal situation. Although, in general, Recommendations have no legal significance in the strict sense, they can have a political and psychological significance in the EU context. Sometimes they can, for example, be a prelude to legal acts, and at other times they may create ‘legitimate expectations’ in interested parties.

Obligation to Conform with EU Legislation

By far the most common method of implementing EU tax legislation has been the Ministerial Regulation. A second method by which EU legislation is imported into Irish law is by incorporating it in the annual Finance Act.

EU membership also makes it necessary to ensure Irish domestic legislation and administrative actions conform to EU legislation and practice. Failure to do so may result in a case being taken against Ireland by a natural or a legal person or by the Commission itself in the European Court of Justice (ECJ). This is of particular significance for RLS Indirect Taxes as the ECJ has ruled on a wide range of VAT and Excise-related legislation.

Inter-Departmental Working Groups

From time to time working parties are established between different Government Departments. The need for these usually occurs where a particular policy option under consideration has implications for more than one Department. It is an effective method of working by way of employing the expertise of other Departments as well as fulfilling the important function of consultation. There is a wide number of dedicated Inter-Departmental working groups collectively assessing all the implications of proposed policy including the legislative changes required to give it effect. The recommendations of these groups sometimes give rise to tax legislation.

Special Reports and Studies by representative groups, statutory agencies or universities etc.

Special Reports on the state of the economy and the reform of elements of the taxation system are now commonplace and can receive prominent coverage in the media. A wide range of statutory and non-statutory bodies undertake their own studies as a matter of course, some issuing bulletins and statements on a regular basis. Examples of this are the quarterly report of the Central Bank and the many reports published by the Economic and Social Research Institute (ESRI). The main banks now also make reports on dedicated aspects of economic and taxation policy. Representative organisations such as IBEC and ICTU occasionally commission special studies to be undertaken by research institutes and universities and the Government itself may commission independent reports into areas of particular sensitivity or expertise. For example, the Finance (No2) Act 1998 was enacted as the Government’s response to the Bacon consultancy study on house prices. All of these present possible implications for the taxation system and can contribute to informing and influencing policy.
Pre-election manifestos and policy documents of political parties

Political parties periodically produce policy documents on a variety of issues including taxation. It is common for these policy documents to form the basis of pre-election party manifestos.

These manifestos and policy documents are important because many of the proposals they contain evolve to become Government tax policy and ultimately give rise to legislation.

National Agreements

National Agreements between the Government and the social partners set out considerations that will shape taxation policy over the life of the agreements. The social partnership agreement 2003-2005, known as ‘Sustaining Progress’, aims, among other things, to move towards removing those on the minimum wage from the tax net and also towards a position in which 80% of all earners will pay tax at not more than the standard rate.

Conclusion

The many influences described above confirm taxation as a crucial instrument of public policy. RLS not only has its legislative role to play in relation to responding to the legislative demands of Government but also fulfils the function of advancing the performance and integrity of the taxation system in general.
Chapter 4

Office of the Parliamentary Counsel
The critical importance of the role played in the legislative process by the Office of the Parliamentary Counsel (OPC) has already been mentioned. This Chapter presents a more comprehensive view of the working relationship between the OPC and RLS with particular emphasis on the Finance Bill.

All draft legislation must go through the OPC and be officially stamped by the OPC before entering into the legislative mainstream. It is the OPC’s responsibility to ensure that Government Bills are in the proper form and, along with and as part of the Attorney General’s Office, to ensure that they are legally sound. For most Government Departments requiring new legislation the OPC undertakes the actual drafting function for them. RLS prepares draft provisions and notes for the OPC. However, because of the specialised nature of taxation legislation and Revenue's expertise in the area, as well as the time constraints inherent in the process, Revenue is required to present drafts to the OPC in almost final form.

**Submission of draft legislation to OPC**

As a general rule most draft legislation, especially of a substantive nature that may have been in preparation for some time, or of a routine character such that there is no doubt as to its inclusion in the upcoming Bill, will have been formally agreed and approved in advance of the Budget between RLS and Finance. This may also include required legislation carried over from previous years. This draft legislation can be submitted to the OPC for settling and stamping as soon as possible.

While the level of expertise in preparing drafts by the RLS may result in few if any changes being made by the OPC to a proposed provision, it should be noted that the OPC will only settle and stamp if satisfied that the provision is in order and legally sound. On occasions, the OPC has redrafted provisions submitted to it by RLS before settling them. This can happen, in particular, when a provision deals with an area outside the normal technical competence of the RLS.

In the weeks following the Budget the Department of Finance prepares a Timetable for the Finance Bill detailing the dates for its publication and for the various stages of the Bill in the Oireachtas before enactment. At this stage substantive agreement will have already been reached between RLS and the Department of Finance on what new legislation will be required. A refined list of items approved for inclusion in the Bill is produced enabling RLS to proceed directly with drafting.

However, not all legislation will have been formally approved thus and this can give rise to a number of difficulties as follows:
• There can sometimes be protracted delays in securing final Department of Finance approval for a particular piece of legislation and the decision on sometimes highly complex and lengthy proposals may be delayed until shortly prior to publication of the Finance Bill. This obviously means a delay in submitting the proposed legislation to the OPC for settling and stamping.

• The OPC comes under intense pressure approaching the deadline for publication of the Finance Bill by the sheer volume of approved legislative drafts submitted for agreement and stamping.

It has therefore been agreed that RLS can submit its draft legislation to the OPC in advance of securing formal approval from Finance (please see below).

There are two provisos to this:

1. the unapproved draft must be clearly marked as such, and
2. the submission will not receive priority attention by the OPC.

The advantage of this is clear in that it allows RLS to proceed with drafting and it facilitates the OPC by allowing it to manage the volume of submissions more efficiently.

In addition, and to reduce pressure after Budget Day on the OPC for the Bill, the OPC may be in a position to informally examine proposed provisions well before the Budget. If the materials do not directly relate to budgetary matters and could be of a size, complexity or novelty that could significantly occupy the resources of the OPC, then consideration should be given to asking the OPC to informally examine them well in advance of Budget Day. An example of this would be a proposed Chapter to consolidate the administrative law in a particular area or to implement an EU Directive. Where this occurs the text (as may be amended by the OPC) should be formally submitted in due course noting that it was informally agreed and identifying any further changes (as a result of the Budget or otherwise) by RLS to the text.

**Procedure for submission of draft legislation to OPC**

All provisions submitted to the OPC for the Finance Bill must be accompanied by an explanation detailing the nature of the proposal. This can be done either in the accompanying minute or (as is more often the case) in an explanatory note. It should set out a clear summary of the purpose of the provision and explain each element of the section (subsection or paragraph) in detail. This explanation corresponds to the requirements in the Cabinet Handbook for other proposed Schemes of Bills. The letter should give the contact name and telephone number of the RLS official responsible for the draft.

Where formal Finance approval for the draft legislation has not been received the letter to the OPC should be marked in bold upper case font clearly stating such, as follows: **THIS PROPOSAL HAS NOT YET BEEN FORMALLY APPROVED BY THE DEPARTMENT OF FINANCE.**

The letter and draft legislation should then be sent or delivered in a sealed envelope to the Office of the Parliamentary Counsel, Government Buildings, Upper Merrion Street, Dublin 2. The envelope should be dated and marked ‘URGENT - BY HAND’.
Electronic Communications with the OPC

The use of e-mail communications between Government Departments is now becoming more widespread and well established. However, in relation to the work of the OPC, it is important to recognise the textual (hard or paper copy) nature of the stamping process as it is currently constituted. As a general rule, communications with the OPC should be by way of hard copy. It is only in the instance of a dedicated line of contact on a specific issue or as a means of administering a function close to the date of publication that the OPC may decide to work by way of e-mail communications. This is due to the huge volume of material descending on the Office of the OPC at the time of the Finance Bill.

E-communications may seem the perfect solution at first sight but this is not the case at all in relation to the difficulties that can arise when different e-versions exist of the same piece of proposed legislation. The systems management required for such a task needs to be highly advanced and governed by strict protocols on method and approval processes. Such systems are currently being devised within the framework of the e-Legislation and e-Cabinet projects that will be rolled out in the coming years to bring electronic government closer to reality. In the meantime, the essential business of RLS in its relationship with the OPC is based on the process by which the proposed draft is formally submitted and agreed and finally stamped as a textual document (hard copy). Where urgency or distance (e.g., instructing OPC from outside Dublin) arises, the possibility of using e-mail in those cases should be raised with the OPC.

Nothing in relation to electronic communications is to be taken as affecting the use of faxes. The OPC will accept faxes in the same way as mail by hand. However, a major disadvantage with faxes is that the physical quality and appearance of faxes in many cases do not lend themselves to being stamped for formal clearance by the OPC.

Finally, any confidentiality issues relating to the security of e-mails or faxes have to be dealt with when considering their use with OPC. This is a matter for RLS. The OPC will not consider initiating the use of either faxes or e-mail for a provision without clearing it with the RLS official concerned. However, if RLS uses faxes or seeks clearance from OPC to use e-mails, it will be presumed that, for the provisions concerned, there is no security or confidentiality issue arising.

The work of the OPC

The OPC is charged with the job of ensuring that all legislation is drafted properly and to the highest standard. Even the most minor elements of a draft are the subject of scrutiny and often it is these matters that will form the basis of discussions with RLS.

The OPC considers the draft legislation. While many proposed provisions may need few if any changes, the OPC in some cases may have to redraft or restructure them. Where text supplied to the OPC requires a few amendments, adjustments or corrections which can be fitted in legibly, they will be noted on the RLS draft in green ink. These amendments, etc., in green can apply whether the change is one of a drafting nature or of substance. If minor changes are needed to supplied text (either at the instigation of the drafter or the OPC) these may be agreed by telephone. In cases where substantive changes are required the OPC will return the draft for redrafting. This will then need to be resubmitted to the OPC for settling and stamping.
Once agreement has been reached (i.e. the provision is settled) the OPC will then stamp the draft accordingly. The original stamped copy will then be sent by the OPC directly to the Department of Finance (it is their Bill) who, provided the relevant section in the Department signs off on it, will use this as the correct version of the legislation to go to the printers. The OPC will also then send a photocopy of this stamped version to RLS.

**Signing-off on agreed drafts**

In some cases the Department of Finance uses a signing off document with RLS to deal with the matter of final accord between them on the agreed version of the draft. Ultimately the only copy of the draft legislation that matters is the one stamped by the OPC.
Chapter 5

Preparing the Draft of Proposed Legislation
The first step in preparing the draft for a proposed piece of legislation is to know as much as possible about what precisely is to be achieved. It is impossible to solve a problem satisfactorily if it is not well understood and so the relevant papers on the topic should be examined in detail. Any legislation of a similar kind enacted previously either here or in another jurisdiction may also be a useful source of guidance. If the aim of the new legislation is to remedy a defect or curb an abuse of an existing measure the basic legislation to be amended must be identified. If, for example, a consolidated Act, such as the Taxes Consolidation Act 1997, contained the ‘defective’ law, care must be taken to ensure that any changes by way of later Finance Acts are taken into account in the amending exercise.

There are a wide range of legislative reference materials available including many online sources, notably www.oireachtas.ie, and www.bailii.org.co. The Revenue Library also provides a comprehensive range of reference materials.

**EU**

It is important to ensure that the proposed legislation is not out of line with EU requirements. It should not be harmful under the Code of Conduct on Business Taxation nor contravene the State Aid Rules. Furthermore, it should not impinge on the ‘freedoms’ (movement of workers, movement of goods, provision of services, and establishment) enshrined in the EU Treaty.

**Previous Finance Acts**

A general examination of earlier Finance Acts will give an idea as to the different formats that can be used for drafting tax law. The use of subsections and the order that further sub-divisions follow - paragraph, subparagraph, clause, subclause - will become familiar. Alternative styles using paragraphs instead of subsections will also be found.

**Interpretation Act 2005**

Mention was made of the Interpretation Act 2005 in Chapter 2. Its purpose or function is, to quote from its Long Title, ‘An Act respecting the interpretation and application of Acts and of Statutory Instruments made under Acts and providing for the repeal of
certain enactments relating to those matters’. Among its provisions the following might be noted:

- section 9(1) deals with references in enactments to Parts, Chapters, sections, Schedules or other divisions into which an Act may be divided;
- section 9(2) deals with references in enactments to subsections, paragraph, sub-paragraph, clause, subclause, article, subarticle, or other division into which a section may be divided;
- Part 3, section 16 deals with the commencement of Acts;
- Part 4 deals with meaning and construction of words and expressions, in particular, section 18 is of interest as regards the general rules of construction of Acts;
- Part 6 deals with the effects of amendments of enactments and the effects of repeals and substitutions;
- the Schedule addresses the interpretation of particular words and expressions.

Drafting Techniques and Guidelines

Styles of Drafting

How a particular piece of legislation is drafted will depend to some extent on the approach of the drafter. Unless the item involved is of a very routine nature different people will tackle it as they see best resulting in various solutions to the problem in hand. There are therefore a number of ways of drafting all of which are equally valid. The aim should be to draft legislation in the clearest and most straightforward manner consistent with achieving its objectives. This ideal will not always be achievable and complex measures may well be unavoidable - particularly, for example, where legislation aimed at countering avoidance is involved.

One drafting practice that should be avoided is called ‘piggy-backing’. This is where the drafter rather than producing a self-contained comprehensive section instead produces a statement that cannot be understood without reference to a number of other pieces of legislation. This practice serves only to complicate taxation law to the point where it is intelligible only to the drafter and experienced practitioners.

Another problematic drafting device to be avoided is referred to as the ‘as if’ approach. This technique may have certain advantages in that it saves time by drawing on existing legislation and adapting only certain parts as needed. It thus results in more concise legislation than would otherwise be the case. However, the benefits may be gained at some considerable cost in that the resultant legislation is generally anything but clear and the reader is obliged to make frequent references to the earlier measure(s) from which it draws.

The following general pointers are worth bearing in mind when attempting to draft any provision:

- Establish clearly the aim of the draft. The question is whether the draft is doing what is intended? In other words, is the draft clear and coherent and does it ensure that the proposed measure delivers what is required;
• In the case of an amendment, ensure the draft ‘fits’ properly with what it is amending. For example, if material (say, a new subsection) is being introduced into an existing provision, ensure that it is placed logically in, and interacts as intended with, that provision;

• In the case of an anti-avoidance measure, the draft should be limited to dealing with the identified abuse i.e. care must be taken to ensure it does not do more than intended, for example, by affecting legitimate arrangements;

• It is important to ensure every term is defined;

• Careful consideration should be applied to cross-reference(s) to the draft, or any other consequential changes needed in a provision being amended (or, indeed, in any other area of the governing Act which refers to the provision being amended);

• Check for the danger of inserting identical numbers on completely separate - new - blocks of amending legislation into the Act being amended;

• Is it necessary for the proposal to indicate from when it is to operate and the specific criteria by reference to which the section is to operate? Does it provide all the necessary information required to enable the reader to know precisely the extent of the application of the section and the conditions determining the extent of that application?;

• Certain measures require a particular commencement date to be specified - rather than relying on the general commencement date (provided for in the short title, construction and commencement section at the end of the Finance Bill);

Arrangement of the Finance Act

The Finance Act is arranged so that it is coherent and follows a logical order. It may contain the following divisions (which are in hierarchical order):

Part  
Chapter  
section  
subsection  
paragraph  
subparagraph  
clause  
subclause

In addition, at the end of the Act, there may be one or more Schedules.

Parts and Chapters are identified at the start of the subdivision to which each of them relates. This is done by a cross-heading (heading) identifying the nature of the subdivision (Part, Chapter, etc.) with designatory numerals in sequence (Part 1, Part 2, etc.) followed by another cross-heading (heading) descriptive of the Part or Chapter, etc.
**Parts**

The presentation of the Act in Parts serves two purposes:

Parts make it easier to comprehend the structure and sequence of the contents. A Part indicates the cohesive relationship of the provisions within it to one another and their separation from provisions in other Parts.

Parts are numbered in Arabic numerals (1, 2, 3 etc.) and given a descriptive heading.

**Chapters**

A Part may contain subparts called Chapters.

Both Parts and Chapters are identified by Arabic numerals and may contain a provision with definitions or other interpretations used in the Part or Chapter. If there is such a general provision for use in respect of the Part or Chapter, it is normally the first section.

**Sections, subsections, etc.**

A section is the basic division of the Act.

Sections may be divided into subsections, paragraphs, subparagraphs, clauses and subclauses.

Each section should be kept to a manageable length.

It should be assumed that the section is to be read as a unit. The relationship of subsections to one another is generally complementary and obvious.

**Schedules**

Schedules to a Finance Act serve a number of purposes. Schedules may indicate how a piece of legislation is to be administered or they may contain substantive provisions important in themselves. A Schedule has to be tied into the Act by an express reference to it within one of the sections of the Act (e.g. “Schedule 1 shall have effect for the purposes of supplementing this section” - see Finance Act 1999, section 71(2); “Mineral oil tax shall be charged at rates specified in Schedule 2” – see Finance Act 1999, section 96(1)).

While a Schedule is as much part of an Act as any other part, it has been ruled in the UK courts that if something in a Schedule contradicts an earlier provision, the provision prevails over the Schedule.

Generally, Schedules should be numbered in Arabic Numerals (Schedule 1, Schedule 2, Schedule 3, etc.).

**Interpretation**

The Act usually has an interpretation section. Because of the nature of the Finance Act there may be separate interpretation sections for different Parts or Chapters of the Act. These sections are used to improve the clarity of the Act.
Remember that while definitions or other interpretations of general application for an Act cover the whole Act (including any Parts, Chapters and Schedules), if the definition or other interpretation is in a Part, Chapter or Schedule, then it only covers the Part (including any Chapters), Chapter or Schedule, as the case may be.

In drafting definitions and other interpretations, use “means” if the complete meaning is stipulated. The use of “includes” is appropriate if the stipulated meaning is incomplete. Do not use the phrase “means and includes”.

The word “the” should be excluded as a prefix to the word or phrase to be defined or interpreted if it can be avoided; e.g.

- “Principal Act” means ...
- “the Principal Act” means ...

A definition is all encompassing. For example, “Minister” means the Minister for Finance – it is clear what is intended to be covered i.e. it is definite.

An interpretation includes any definition but need not be definite; if what is intended is to be illustrative rather than exhaustive (i.e. rather than setting out all items covered by the word or phrase, it sets out only examples of the type of item to be covered or not covered by the word or phrase) it is an interpretation and the term “includes” or “does not include” is used.

**Formatting of the Finance Bill**

Most draft legislation is created on pc's using Microsoft Word software. This allows drafters the facility to work on numerous drafts and make necessary changes. Good file management using designated folders is a highly effective means of dealing with the demands of such a process.

Draft sections themselves should be drafted on a two-column table. The left column is used for the sidenote (rubric) of the section (obviously, this column should be narrower, approx 3cm). The right column (the wider column, approx 12cm) is used for the section text and this is the space to make the formatting arrangements detailed below.

**Sections**

Sections are divided into sentences and normally each sentence is a subsection. Where appropriate and for clarity, the use of more than one sentence in a section which has no further subdivisions is acceptable. However this should not be used to replace the use of subsections where their use would be appropriate.

Where there are no subsections in a section, a section can be divided into paragraphs, paragraphs divided into subparagraphs, subparagraphs divided into clauses and clauses divided into subclauses.
Where there are subsections in a section each subsection can be divided into paragraphs, and so on down to subclauses as above.

A qualification to a section, subsection, paragraph, subparagraph, clause and subclause is called a proviso. Generally, the “Provided that” mechanism is now rarely used. The Taxes Consolidation Act 1997, replaced provisos in the pre-consolidated Acts by text running on and beginning with the words “but if” instead of “Provided that”. Alternatively, it may be possible to draft what would be a proviso as an appropriate subdivision of the section.

The following is a broad list of elements specific to drafting of sections:

1. Sections may consist of one sentence with no subdivisions and this sentence is (apart from a sidenote) laid out as a section.

2. Sections may occasionally consist of more than one sentence if the subject matter is the same and very closely related. These two sentences are laid out as a section.

3. (1) Sections may be subdivided into subsections for related matters where each subsection consists of one or more than one sentence.

   (2) Where a section is subdivided into subsections, it is indicated by using an Arabic numeral within brackets as in this case.

   (3) The text you are now reading is laid out in the format of a subsection and is always in tabs rather than indent.

   (4) Sometimes it is useful -

      (a) for ease of reference, or

      (b) for clarity sake,

   to divide subsections into paragraphs, as indicated here.

   (5) (a) Subdivisions into paragraphs can be as in subsection (4) with opening words before the first paragraph.

      (b) Subdivisions into paragraphs can also be in a format, as in this case, with the text in sentences.

      (c) The subdivisions into this type of paragraph (running immediately on from the subsection reference) are used where the material in the subsection is closely related enough (in the context of the overall section) to warrant its use.

      (d) All paragraphs are indented and normally are indicated by using bracketed lower case letters “(a), (b), (c), (d)” etc..
(6) (a) Paragraphs, of either subsection (4) or (5) type, can be subdivided into subparagraphs.

(b) The subdivision of paragraphs is into subparagraphs and are -

(i) normally identified using bracketed lower case Roman numerals “(i), (ii), (iii), (iv), (v), (vi)....” etc., and

(ii) indented further than the paragraph to which they relate (as in this subparagraph).

(7) (a) Paragraphs subdivided into subparagraphs can be further subdivided-

(i) from a subparagraph into -

(I) two clauses,

(II) three clauses, or

(III) more than three clauses (these are clauses),

and

(ii) from a subparagraph into -

(I) two or more clauses, or

(II) two or more clauses, each of which may be further subdivided into-

(A) two subclauses, or

(B) more than two subclauses (these are subclauses).

Please note that, arising out of the development of advanced new electronic software used in printing systems, certain modifications may effect themselves at actual printing stage. These will be automated at that level - they do not affect the drafting indicators as stated above.

**Notation for sections**

As can be seen from the above, for sections and subdivisions of a section of an Act there is a hierarchy of use of notation, as follows:

- Arabic numerals in ascending order (**always a section**) 1, 2, 3, 4, 5, 6......etc.

- Bracketed Arabic numerals in ascending order (**always a subsection**) (1), (2), (3), (4), (5), (6)......etc.

- Bracketed lower case letters in alphabetical order (**always a paragraph**) (a), (b), (c), (d), (e), (f)......etc.
• Bracketed small Roman numerals in ascending order (subparagraphs)
  (i), (ii), (iii), (iv), (v), (vi)...etc.
• Bracketed capital Roman numerals in ascending order (clauses)
  (I), (II), (III), (IV), (V)...etc.
• Bracketed upper case letters in alphabetical order (subclauses)
  (A), (B), (C), (D), (E)...etc.

However, provisions in paragraphs (for which (a), (b), (c), etc is always a paragraph) may revert out of paragraphs and revert to the level of a subsection, as in the following example, and go back again into paragraphs (as in (i), (ii) below).

(2) Text text text text text text text text text text text text text text text text text text text text text text text text text text text text text text
  (a) text text text text text text text text text text, or
  (b) text, text, text,

Also note that the indentation for paragraphs (i) and (ii) is the same as that for paragraphs (a) and (b).

There are many permutations and combinations of this. The point to remember is that if you revert out of a subdivision to a higher subdivision and then revert back in again to the lower subdivision, you use the next level of notation not already used in that sequence of subdivisions. The question to ask yourself is “Will my notation be ambiguous if there is a cross-reference to it?”. Whether there is or is not a cross-reference in the draft is not relevant, there could be a cross-reference in a future Act to the provision in question.

**Schedules**

Schedules can consist of Tables of information or paragraphs or such other arrangement as is appropriate in the circumstances.

In the Finance Act, Schedules facilitate the setting out of -
  • lengthy repeals or consequential amendments;
  • tables relating to taxation matters;
  • lengthy lists of named organisations or other bodies.

As a consequence, Schedules often have the effect of making the Act more readable.
Tables

Tables are drafting devices which can have either of two purposes -

- They may be **informative** i.e. designed merely to show, at a glance, how a given piece of legislation will read after it has been amended by a measure in the Bill. In such a case, the revised wording will appear as a Table in small print. There must be nothing new to the text in the Table except that expressly provided for in the text providing for the Table. Since an informative table merely purports to state the law as it stands after an amendment, there is no need to amend such a table when there is a subsequent substantive amendment. However, consider inserting another similar Table.

- They may be **substantive** and used to shorten a draft from a narrative form to a shorter narrative with a visual form, e.g. a table showing the various rates of tax as in section 15 of the Taxes Consolidation Act 1997. It is particularly useful where the Table is relatively short and for clarity merits being inserted with the substantive text and not placed in a Schedule. When the law changes, such Tables have to be amended or substituted – see e.g. section 3 of the Finance Act 1999. Indicating, for example, that the rates at which income tax is charged are to be amended in a particular way which are then specified in the Table; in such a case, the Table print is in normal size.

Use of Language

Well-drafted legislation calls for **consistency, coherence** and **clarity**.

Consistency in style and grammar is important because enactments are drafted, amended and re-enacted over a long period of time by different drafters. They are interpreted by the judiciary, administrators, persons to whom they are addressed, the legal and other professions and by the public.

Brief, concise drafting usually leads to clear, understandable legislation. Generally, short words are preferable to long words. A simple sentence is easier to understand than a complex or compound sentence. Omit needless words. In drafting do not use jargon, slang, overly technical language, “legalese”, or foreign phrases (including Latin legal terms) unless the word or phrase is a term of art or its use is supported by relevant case law.

Vagueness

Caution should be exercised in the use of language that is so indefinite that it is meaningless or begs a challenge in court as invalid due to vagueness.

Consistency

The following should be noted:

- Do not use the same word to convey different meanings.
- Do not use different words to convey the same meaning.
- Do not use a synonym if you are trying to indicate a difference in substance.
**Word Choice and Usage**

The following are some basic rules to follow in choosing words:

- Use simple and familiar words unless they do not accurately express the intended meaning.
- Use a single word, if possible, rather than a phrase.
- Prefer verbs to noun forms.
- Do not use different words to express the same meaning, or the same word to express different meanings.
- Delete unnecessary words as they can lead to confusion and ambiguity.
- Where possible, avoid Latin and French expressions, jargon, journalesse and archaic words or phrases.

**Recommended or required usage of certain words and phrases**

**Citations**

The general practice is to cite an Act by reference to its short title.

**Deletion of commas, etc., in short titles**

The comma, which appears before the date reference is to be deleted, and any period mark after the date is also to be deleted unless grammatically required.

**“the State”**

When referring to the legal jurisdiction (including the organs of State) established by the Constitution of Ireland (Bunreacht na hÉireann) refer to it as “the State”.

**Amendments to Finance Acts**

**Textual amendments**

Textual amendments to Finance Acts involve inserting, adding, deleting or substituting -

- a provision into, from or of the Act, or

- material into, from or of an existing provision of the Act.

**Partial amendment of provision**

Apart from the substitution of the whole of a section, Part or Chapter of an Act or of a Schedule to an Act, there are two basic layout approaches for identifying the provision to be amended, as follows:
Examples

Section 6 of the XY Act 200_ is amended by ...
The XY Act 200_ is amended in section 6 by ...

The first version should be used where there are a number of sections of an Act to be amended by the amending Bill which are contained in different sections of the Bill.
The second version should be used where the Bill is amending an Act in one section of the Bill (or in one section of the Bill with a reference to a Schedule to that Bill).

Substituting the whole of a Section, Part, Chapter or Schedule

Where the whole of a section, Part or Chapter of an Act or of a Schedule to an Act is substituted, the verbal style rather than the nominal style is now preferred.

Examples as follows:
The Principal Act is amended by substituting the following for ........

   by substituting “........” for “........”

Nominal approach: by the substitution for “...[old text]...” of “...[new text]...”

   Verbal approach (preferred): by substituting “[new text]...” for “[old text]...”

   by inserting “........” after “........”

Nominal approach: by the insertion after “...[old text]...” of “...[new text]...”

   Verbal approach (preferred): by inserting “[new text]...” after “[old text]...”

There may be occasions where, in its context, the nominal approach will read better. In that case the nominal approach should be used.

Legal action verbs: “shall” and “may”

“shall” - Use it to say a person or a body “has a duty to” do something or “has to” do something.

Where no obligation or duty, etc, arises try to avoid using “shall” in a non-mandatory sense e.g. “shall be guilty of an offence” and use the present indicative e.g. “is guilty of an offence”

“may” should be used where a power, permission, benefit or privilege given to some person may but need not be exercised; exercise is discretionary.

Fundamental elements of Punctuation

Punctuation provides a signpost to sentence structure. It makes it easier for the user to comprehend the structure of the sentence and therefore to understand the message.
Use punctuation only if it serves a demonstrable purpose. For example, a series of lettered paragraphs might correctly be introduced by a colon or without punctuation marks but by a dash, and these practices should be followed consistently, unless the meaning clearly requires a departure. Similarly, each paragraph in a series might end with a semicolon or a comma, and again, a consistent practice should be adopted.

Which practice to follow depends on the content. If a sentence contains a list of propositions in paragraph form, use a colon to introduce and semicolons to separate the paragraphs. If a sentence contains a series of short items which flow naturally into one another, then no mark of punctuation is required to introduce the paragraphs, but a dash is used and commas should separate the items.

The best practice is to use a dash and commas, for example, where a sentence runs on.

**Full Stop**

Every sentence ends with a full stop. There should be no full stop after a cross-heading, title, number, table or symbol of currency or measurement. A full stop is used at the end of every sidenote (sometimes referred to as ‘the rubric’) and most abbreviations (for example “etc.” – which is never used in the text of an Act but can be used in sidenotes).

**Comma**

Commas serve two distinct purposes: to separate and to enclose. A comma may separate -

- items in a series (whether words, phrases or clauses),
- words or numbers where misunderstanding might otherwise result, or
- long independent clauses joined by conjunctions such as “but”, “and”, “nor”.

Commas should never enclose a restrictive defining clause. A restrictive defining clause is a clause without which the substance of the sentence would be incomplete. The underlined relative clause in the following sentence, for example, should not be enclosed in commas because it is essential to what the drafter needs to communicate.

> The Authority may recover as a debt due from the owner of the licensed works costs and expenses that are reasonably incurred in taking measures for remedying pollution damage.

In the following sentence, a non-defining clause is correctly enclosed with commas because it could be omitted without changing the essential meaning of the sentence.

> The members of the Board, who are appointed under section 9, shall hold office for a maximum term of 4 years.

Except for commas enclosing material of a parenthetic nature, a comma should neither separate a subject from its verb nor a verb from its object.
Apostrophes
Use apostrophes only to indicate the possessive case, either in the singular or plural, as in “officer’s” or “members’”. However, generally avoid using the possessive.

Colon
The principal use of the colon in legislation is to introduce a series of paragraphs, sub-paragraphs or a list or tabulation. Semi-colons then follow the colon.
A colon is used at the end of the enacting clause-
“BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:”

Semi-colon
A semi-colon is a mark of co-ordination not termination.
- It may join in one sentence two independent clauses, which are sufficiently related to make it desirable to show their coherence in one sentence.
- It may co-ordinate a series of paragraphs, subparagraphs or items listed, for example in an interpretation section.

Parentheses
Parentheses or brackets enclose explanations, illustrations or digressions that are loosely connected with the message of the sentence. Use them with caution.

Hyphens
Compound adjectives
Hyphenate a compound adjective e.g. self-employed person. Many words that are hyphenated and used as adjectives are not hyphenated when used as nouns.

Certain prefixes
Use a hyphen with all prefixes before proper nouns. With the prefixes “ex-”, “self-” and “all-” and the suffix “-elect”, use a hyphen with any noun.

Capitals
There is a trend against unnecessary use of capitals to begin words. When in doubt, reject the capital. Take care, however, to be consistent. Use a capital for –
- the first letter of the first word in a sentence;
- the first letter of the first word of a sidenote (rubric) or shoulder-note;
- proper nouns and proper derivatives of proper nouns (example: Ireland, Irish);
- references to “the State”
- months of the year and days of the week;
- the first letter of the names of specific people, places, institutions, historic events, things or ideas when the full name is given;
• Act, when making an internal reference to the Bill you are drafting (“in this Act”);
• defining a proper noun e.g. “Minister” means the Minister for Finance;

**Reference to dates**

Dates should be presented in the format “1 January 2000” (i.e. without commas).

**Italics**

Italics should be used in the following cases:

• Scientific names

• Classical words or phrases used in English (for example “ultra vires”). Note that such words and phrases should not be used where there is an appropriate English word, for example, use “in good faith” instead of “bona fide”. However, do not italicise “per cent”.

• In references to “the Iris Oifigiúil” (i.e. the official State Gazette).

• It is the practice of the Bills Office to italicise cross-references within a Bill to itself. This facilitates the identification of references that could change in consequence with the insertion of amendments as the Bill goes through the Houses of the Oireachtas. Similarly, internal references to the short title and new collective citations (other than in the substantive section) are italicised to facilitate amendment in the Bill to the year reference as a result of the Bill being enacted in a year subsequent to its initiation.

**Numbering and lettering practice**

Other than where the number is “one” or the first word in a sentence, cardinal numbers are to appear in the text as Arabic numerals (2, 3, 4, etc., ...). Exceptions to this would include:

• cases where there is a textual amendment of some but not all numbers in an Act which are in words;
• where it would otherwise read better.

Percentages (including “1 per cent”) appear in Arabic form, except as the first word of a sentence.

**Numbering and lettering practice - specific**

Use Arabic and not Roman numerals to number Parts, Chapters, sections and subsections.

Do not use bullet or dot points, since they create difficulties in making cross-references and subsequent amendments.

While a section “1” and subsection “(1)” are always designated as above, paragraphs may (in addition to and where “(a)” has already been used in a provision) also be identified by “(i)”, “(I)” or “(A)”. The designatory number or letter for paragraphs (apart from their first use with (a), (b), (c) etc.), subparagraphs, clauses and subclauses depends on the layout of the section in question (see “Formatting of the Finance Bill” above).
Convention for numbers, use of commas
With numbers of 1,000 and up which are amounts of something, the convention of using a comma is to be followed, as the following example shows: 5,989,674.

Compound numbers, use of hyphens
Where compound numbers from 21 to 99 have to be spelt out (for example, for consistency of style or approach) a hyphen is used e.g.: twenty-one, ninety-nine.

Amounts less than one and fractions
Amounts less than one should as far as possible be expressed as decimal amounts. Always use a “0” to the left of the decimal point where there is no whole number.

Where fractions must be used, express the fraction in numerals or words rather than fractions. A hyphen is used where it is appropriate to identify a fraction in words. e.g. one-half.

Monetary amounts
Monetary amounts of one euro and above should be expressed in numerals preceded by the euro symbol.

Time
Time should be expressed as follows: 9 a.m., 10.30 p.m., 12 noon, 12 midnight.

Metric measurements
All units of measurement should be expressed as metric units unless there is a compelling reason to do otherwise.

Singular and Plural
It is normal drafting practice to make the subject matter of a provision singular rather than plural. Use the singular even if the enactment encompasses both.

Use of Pronouns
Use pronouns to avoid producing unnatural and stilted sentences. However, what they refer to - their antecedents - must be clear. It is preferable that a pronoun follows the noun to which it refers.

Relative pronouns: restrictive and non-restrictive clauses: “that”, “which” and “who”
A relative pronoun introduces a subordinate clause that modifies a noun or a pronoun occurring elsewhere in the sentence and connects a dependent clause to the main clause.
It is also a substitute word that refers to its antecedent and stands for that antecedent in a subordinate clause “Who” relates to a specific person. “That” relates to animals, persons or things and introduces restrictive clauses. “Which” relates to animals, persons or things and introduces non-restrictive clauses.

The distinction between “that” and “which” in restrictive and non-restrictive clauses eludes many drafters.

“that”  
Use “that” to introduce restrictive clauses, i.e. clauses upon which the meaning of the sentence depends; clauses that specifically identify the subject or object you are describing. Commas do not usually set off these clauses.

“which”  
Use “which” to introduce non-restrictive clauses. Non-restrictive clauses are those that are in the nature of being parenthetical or a commentary. Although they provide additional information about the subject or object, this information is nonessential to the meaning of the sentence. Commas generally set off these clauses.

Gender  
Bills and Statutory Instruments are by virtue of a Cabinet decision to be drafted in gender-neutral language as far as possible. However, measures primarily applicable to men are to be framed in the masculine and measures primarily applicable to women in the feminine. This requirement is interpreted as permitting “he or she” and “his or her” as appropriate.

Care should be taken with gender proofing, by way of amendment, existing Acts and statutory instruments that are not themselves gender proofed.

Gender-specific nouns and adjectives often can be easily replaced with neutral terms, for example:

Upon written request from an employee, the employer shall provide the employee with an opportunity to review the employee’s personnel file.

Drafting Amendments to the Finance Bill  
Amendments at both Committee Stage and Report Stage of a Bill before one of the Houses of the Oireachtas follow a general formula of words. These technical words allow for an amendment to be inserted in its correct location and the deletion (if appropriate) of words or provisions in the Bill “as initiated”.

Committee Stage Amendments  
Committee stage amendments are identified—

• primarily by reference to the provision to be amended (i.e. the section or Schedule number or the long title);  
• then, normally, by reference to the page, subsection being amended (if any), line or lines being affected and the words enabling the amendment.
Example

Section 2
In page 9, subsection (7), line 23, to delete “or” and substitute “and”

Sometimes at Committee Stage a section is to be deleted without the insertion of a substitute section. In that case there is no draft replacing that section but a note can be stamped by the OPC and supplied to the Department as follows:

Section [insert section number] or Schedule [insert section number]
Section proposed to be deleted.
— A n tAire A ireagadais

Where a section is to be substituted for a section of the Bill at Committee Stage, then the new section goes in between the previous section and the section being substituted, for example:

Section 10
In page 5, between lines 7 and 8, to insert the following new section:
“Sidenote. 10 ........................................*.
* [Acceptance of this amendment involves the deletion of section 10].

Where a section is to be inserted between two sections and the second section is the first section of a new Chapter or Part, the amendment has to indicate into which Chapter or Part the new section will be in, for example:

Section 13
In page 23, between lines 5 and 6, but in Chapter 7, to insert the following new section:
“Sidenote. 13.— .................................”.

Report Stage Amendments
Report Stage amendments are identified by reference to the relevant page and line number without reference to “Section” or “Schedule” as a heading and without reference to a subdivision (e.g. “subsection (2)”) in the enabling words.

The first Committee Stage amendment above would, if a Report Stage amendment, read as follows - with strikeout text deleted, for example:

Section 2
In page 9, subsection (7), line 23, to delete “or” and substitute “and”

Further Information
If a doubt arises as to the technical words necessary for a particular Committee or Report Stage Amendment the RLS drafters concerned should consult with the Office of the Parliamentary Counsel for guidance.
The Budget is the annual financial statement of the Government presented to Dáil Éireann by the Minister for Finance. In recent years, the Budget has been on the first Wednesday of December each year. It is widely observed by the media, the general public and the financial markets as the most significant national economic event on the calendar. The word budget is derived from the French bougette or leather bag. In England by the early 18th Century it had become a common word for a dispatch box in which official papers were kept and to this day, in the UK, tradition has it that the Chancellor of the Exchequer is said to ‘open his budget’ when he makes his annual financial statement to the House of Commons on Budget Day.

The Budget Speech

The Budget Speech gives details of the previous year’s budget outturn, comments on the current economic condition of the country, and projects a national financial plan for the year ahead. It also gives details of the various changes in taxation that the Government proposes to make in line with these plans. In so far as proposed changes in taxation are concerned it is important to note that the Budget speech itself has no legislative force – it is merely a statement of intent.

The preparation of the Budget Speech is a matter for the Department of Finance. However in the last days leading up to the Budget RLS will receive advance notice of the draft taxation element of the Budget speech. This draft is checked for technical accuracy by the respective RLS branches responsible for the taxation measures in question and any relevant Financial Resolutions (FRs) will also be prepared.

Very strict confidentiality must surround the Budget as many of the measures announced can have important implications.

During the course of the Budget Speech in the Dáil the Secretary General, the Second Secretary General and the Assistant Secretary of the Budget and Economic Division of the Department of Finance, and also the Chairman of the Revenue Commissioners and the two other Revenue Commissioners take their places in a reserved section of the Dáil Chamber. They will be in a position to advise the Minister on any points that may arise in the course of his Budget speech. RLS prepares a comprehensive brief on any Financial Resolutions for each member of the Board.
Following the Budget Speech, the Finance spokespersons of the main Opposition parties in the House reply to the Minister’s statement. The order of speaking is dictated by the size of the parties’ representation in the Dáil. Under Dáil Standing Orders a party in opposition has to consist of at least two members before being eligible to reply to the Budget Speech.

Upon conclusion of the Opposition spokespersons’ contributions the Dáil then proceeds to debate the various Financial Resolutions that may be associated with the Budget. Usually, due to media commitments by the Minister for Finance on Budget night, Financial Resolutions are moved by another member of the Government. Officials of the Department of Finance and the Revenue Commissioners attend in the Dáil to advise the Minister present on the Resolutions.

Financial Resolutions

Whilst the Budget is of central interest to RLS the only direct involvement RLS has in it from a legislative point of view is with the preparation of Financial Resolutions (FRs). A Financial Resolution is required whenever a charge is imposed upon the people. A charge may take the form of either:

1. the imposition of a new or increased tax, or
2. a reduction in, or repeal of, or restriction of a relief from tax.

In the context of the Budget and the Finance Bill, Financial Resolutions may require to be moved either on Budget Day or just before the Committee Stage of the Finance Bill.

If the charge to be imposed on the people will impact at any time before the Finance Bill becomes law a FR governing the charge will have to be passed by Dáil Éireann on Budget Day to come into operation either:

(a) with immediate statutory effect;
(b) with effect prior to the passing of the Finance Act.

With regard to (a), FRs which give effect to changes relating to excise duties must be passed before midnight on Budget night as that is the time at which they will come into force.

The position at (b) generally arises in relation to income tax which operates for a tax year commencing on 1 January, and to VAT which operates for two-monthly taxable periods commencing on 1 January.

The need for a FR as outlined at (b) may be illustrated by reference to certain VAT proposals of the December 2002 Budget which involved an increase in the lower rate of VAT with effect from 1 January 2003. If this FR had not been passed by Dáil Éireann with effect from that day taxable persons affected by this change could have insisted on being taxed under existing law until the law was changed upon the enactment of the 2003 Finance Act.

Financial Resolutions are also used at Committee Stage of the Bill – these will be dealt with in Chapter 9.
The drafting of Budget Day Financial Resolutions

Budget Day Financial Resolutions must be treated like any other piece of fiscal legislation. It is vital, therefore, to ensure that the text of a Budget Day Financial Resolution is completely accurate and achieves the objective behind the Resolution. The drafting of Budget Day FRs is done by the branch in RLS that has responsibility for the drafting of legislation on the tax or duty covered by the FR. RLS should as necessary consult with other areas in Revenue that are responsible for the administration of the tax or duty covered by the FR or that may be affected by its terms.

Once the draft of the Financial Resolution has been finalised within Revenue it is sent to the OPC together with an explanatory letter or note on the draft. This explanatory letter or note should contain a general description of what the draft Resolution is designed to achieve and a more detailed description of the effect and purpose of each particular provision of the Resolution. Where a Budget Day Financial Resolution would include a financial amount or a percentage figure, it is not necessary for the OPC to know the amount or the figure and it can be settled by OPC with a blank for the amount or figure. However, if the context of the Resolution requires, it may be necessary for OPC to know if the result would be an increase or a decrease in an existing amount or figure.

As for all other legislation, FRs must be officially stamped by the OPC which sends the original to Finance for final clearance and a copy to Revenue.

The FRs must be available in printed form in time for the Budget. This is arranged by the Department of Finance. They send the FR as agreed with the OPC to the printers (currently Cahill Printers, East Wall Road, Dublin 3) at the latest on the day before the Budget to ensure their availability on Budget Day. It may be necessary for RLS staff to attend the printers on the night before the Budget to check the final proofs.

Format of Budget Day Financial Resolutions

Budget Day Financial Resolutions have their own distinct format – the following points are worth noting:

- When Dáil Éireann passes a FR it is resolving that a certain action be taken. Each provision (paragraph) of a Budget Day FR commences with the relative pronoun ‘That’.
- Where an Act of the Oireachtas is referred to in a Budget Day FR the number of the Act must be quoted in parentheses after the reference. If there are a number of references to the one Act in the same Resolution, the number of the Act need only be quoted after the first such reference.
- Every Budget Day Financial Resolution, other than the General Resolution, should contain the following provision:

  ‘It is hereby declared that it is expedient in the public interest that this Resolution shall have statutory effect under the provisions of the Provisional Collection of Taxes Act 1927 (No.7 of 1927).’

  This is the provision that gives the Resolution the same statutory effect as if it were contained in an Act of the Oireachtas.
Procedures in Dáil Éireann for Budget Day Financial Resolutions

Following the Budget Speech in the Dáil, the respective FRs are moved by the Government in the order in which they appear on the order paper. Generally, those relating to excise duty appear first because the excise FRs must be passed before midnight. These are followed by the FRs relating to Value-Added-Tax, Income Tax, Corporation Tax, Capital Gains Tax and Stamp Duty. The last Resolution to be moved is the General Resolution.

Each FR is normally debated by the Dáil. Any Deputy can contribute to the debate and questions can be asked of the Minister ranging from the policy behind the Resolution to the technical meaning of the wording of the Resolution. When the debate on a Resolution is finished or the debating time allotted to it under the order of business has expired (usually the order of business for the Dáil on Budget Day decrees that Financial Resolutions other than the General Resolution must be taken before a particular time on that day) the Ceann Comhairle will put the question to the Dáil.

The defeat of a Budget Day Financial Resolution effectively represents a vote of no confidence in the Government and would normally result in the Taoiseach asking the President to dissolve the Dáil and the calling of a General Election. This happened in 1982.

Briefing Notes for Budget Day Financial Resolutions

Because of the extensive nature of the debate on Budget Day FRs it is necessary to prepare detailed briefing on each FR. This briefing normally consists of a Speaking Note setting out in broad terms what the measure is intended to achieve, and a Detailed Note describing the purpose and effect of each particular provision of the FR providing useful background and statistical information on the cost or yield implications.

It is also necessary for the Revenue staff responsible for the drafting of the relevant FRs, together with Department of Finance officers, to sit in the reserved section of the Chamber of the Dáil in order to be in a position to advise whichever member of Government is taking the FRs on any points that may arise during the debate. To this end it is advisable to have what is known as a ‘back-up’ brief ready. This brief should contain notes on questions or other points that the Opposition Parties may be likely to raise in connection with the Resolution. The availability of such back-up notes greatly reduces the need for the Revenue officials to write notes in situ for use by the Government member taking the FRs should such questions arise.

Provisional Collection of Taxes Act 1927

Budget Day Financial Resolutions are given statutory authority under the Provisional Collection of Taxes Act 1927. Under Section 2 of the Act whenever a Resolution is passed by Dáil Éireann resolving:

\[(a) \] that a new tax specified in the Resolution be imposed, or

\[(b) \] that a specified permanent tax in force immediately before the date on which the Resolution is expressed to take effect (or, where no such date is expressed, the passing of the Resolution by Dáil Éireann) be increased, reduced, or otherwise varied or abolished, or
(c) that a specified temporary tax in force immediately before the date the Resolution is expressed to take effect (or, where no such date is expressed, the passing of the Resolution by Dáil Éireann) be renewed (whether at the same or a different rate and whether with or without modification) as from the date of its normal expiration or from an earlier date or be discontinued on a date prior to the date of its normal expiration,

and the Resolution contains a declaration that it is expedient in the public interest that the Resolution should have statutory effect under the provisions of that Act, the Resolution shall, subject to the provisions of that Act, have statutory effect as if contained in an Act of the Oireachtas.

Budget Day FRs always contain such a declaration and, as such, once passed by Dáil Éireann, have the force of law. However, section 4 of the Provisional Collection of Taxes Act 1927 provides that a Resolution under that Act will cease to have statutory effect upon the happening of the earliest of the following events:

‘(a) subject to section 4A of this Act, if a Bill containing provisions to the same effect (with or without modification) as the Resolution is not read a second time by Dáil Éireann-
   i) where Dáil Éireann is in recess on any day between the eighty-second and eighty-fourth day after the Resolution is passed by Dáil Éireann, within the next five sitting days of the resumption of Dáil Éireann after that recess;
   ii) in any other case within the next eighty four days after the Resolution is passed by Dáil Éireann;

(b) if those provisions of the said Bill are rejected by Dáil Éireann during the passage of the Bill through the Oireachtas;

(c) the coming into operation of an Act of the Oireachtas containing provisions to the same effect (with or without modification) as the Resolution;

(d) subject to section 4A of this Act, the expiration of a period of four months from the date on which the Resolution is expressed to take effect or, where no such date is expressed, from the passing of the Resolution by Dáil Éireann.’

Section 4A referred to above provides that any period of dissolution of Dáil Éireann shall be disregarded for the purposes of the above-mentioned time limits.
Budget Day Financial Resolutions and Income Tax reliefs

Normally Financial Resolutions are required only where a tax is increased or a relief is reduced. There is no requirement for a Financial Resolution in connection with reliefs such as increases in income tax personal tax credits or reductions in rates of income tax. This is so even though effect will be given to the increased tax credits or reduced rates of tax under PAYE as on and from 1 January, which will be some time before the enactment of the annual Finance Act. Once income tax reliefs are announced by the Minister for Finance on Budget Day the certificates of tax credits and standard rate cut-off point for the coming tax year are, where possible, adjusted to include the reliefs announced. However it should be noted that the proposed reliefs are granted on a provisional basis only: if changes to the proposed reliefs are made during the course of the Finance Bill through the Oireachtas, effect will be given to those changes by the issue of revised certificates of tax credits and standard rate cut-off point.

There are occasions when a Financial Resolution with immediate statutory effect may be desirable in connection with a proposed relief. The use of a Financial Resolution for this purpose is permissible since section 2(b) of the Provisional Collection of Taxes Act 1927, applies to Resolutions providing ‘that a specified permanent tax be increased, reduced, or otherwise varied, or be abolished’.

The General Resolution

With one exception Budget Day FRs relate to specific taxation measures. The exception in question is what is known as the General Resolution. The Department of Finance drafts it and agrees it with the OPC.

The General Resolution always takes the format:

‘That it is expedient to amend the law relating to inland revenue (including value-added tax and excise) and to make further provision in connection with finance.’

The General Resolution is essentially procedural in nature; its purpose is to initiate, or provide a platform for, the general debate on the Budget. No specific briefing is needed by the Minister for Finance in connection with it.

The Budget Debate

This debate can last for a number of days, even weeks. It tends to draw to a close some weeks before the introduction of the Finance Bill. It can range discursively over the whole Budget and any Deputy may make a contribution.

There is no involvement for Revenue staff in the Budget debate. No briefing is required and attendance at the Dáil is not necessary. Copies of transcripts of the Budget debate can be obtained either from the Department of Finance or from the Oireachtas website. These may be useful in preparing briefing well in advance for the Committee Stage of the Finance Bill.
Post-Budget action required by Revenue

The most important post-Budget task to be undertaken by Revenue is the preparation of the Finance Bill. However there are a number of other tasks to be completed in connection with the Budget. These generally consist of the preparation of explanatory leaflets on Budget proposals. It may also be necessary to undertake information and advertising campaigns to alert taxpayers to new or increased reliefs or charges. All Revenue online information sources must also be updated accordingly, both the Revenue website and ROS (Revenue online services). In addition RLS must forward a report on the contents of the Budget to both the EU and the OECD.
Chapter 7

Preparation for the Finance Bill
In the wake of the Budget all attention is focused on the task of preparing the Finance Bill.

Usually, in July of each year, the Department of Finance and Revenue agree a list of items to be considered for legislation. Submissions are made to the Minister, often based on proposals from Revenue. These proposals are examined in the Department of Finance and a submission is made to the Minister on each matter. This work proceeds in tandem with preparation of the annual Budget, and immediately following the Budget Finance officials determine in detail the direction in which the legislation will proceed.

**Finance Bill Tracking List**

As mentioned in Chapter 3, the Department of Finance operates an active Tracking List for the Finance Bill. This is a spreadsheet listing items that may be the subject of legislative action in the Bill. It provides an effective and important method of monitoring progress or decisions in relation to these items and is a very useful method also for RLS to follow the development of the Bill. The Department of Finance issues an updated and revised list on a regular basis and these are communicated to RLS at senior level. The list is an important document which must be treated confidentially and should not be widely circulated.

**Finance Bill Timetable**

The Department of Finance also obtains the Minister’s approval for a formal Timetable for the Finance Bill. This specifies the projected date for publication of the Bill (usually late January/early February) and also the dates for the respective stages the Bill must proceed through before it is finally passed into law as the Finance Act (usually late March/early April). This Timetable is important in that it allows everyone involved in the legislative function to determine in advance the timeframes in which to formulate and draft legislation and forward it to both Finance and the OPC for approval. The Department of Finance, the RLS, the OPC and the Bills Office work closely together throughout the process.

An example of an internal Revenue Timetable as used by RLS Indirect Taxes for 2004 Finance Bill is shown on the next page.
# 2004 Finance Bill Timetable - RLS Indirect Taxes

<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
<th>Section</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 Jan</td>
<td>Arrangement of Sections</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Final Drafts to OPC</td>
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<td></td>
<td>• Proof reading</td>
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<tr>
<td></td>
<td>• Agree all drafts with OPC</td>
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<td></td>
<td>• Receive stamped copy from OPC</td>
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<td>• Collation of explanatory memorandum</td>
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<tr>
<td></td>
<td>• Finalise explanatory memorandum</td>
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</tr>
<tr>
<td>27 Jan</td>
<td>Bill items to go to Government</td>
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<td>Dáil resumes</td>
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<td>Preparation:</td>
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<td>• Speaking Notes for Minister</td>
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<td>• Statistical Brief</td>
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<td>Examine for Financial Resolutions</td>
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<td>3 Feb</td>
<td>Government approval for Bill</td>
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<td></td>
<td>• Printing and final proof reading of Bill</td>
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<tr>
<td>4 Feb</td>
<td>Publication of Finance Bill</td>
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<td>11 Feb</td>
<td>Dáil Second Stage</td>
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<td>Monitor Dáil Debates for Committee Stage Amendments</td>
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<td>Finalise:</td>
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<td>• Minister’s Speaking Notes</td>
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<td>• Minister’s Briefs</td>
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<td>Prepare Committee Stage Amendments drafts for OPC</td>
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<td>Prepare proposed amendment briefs for Committee Stage</td>
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<td>Briefs to Minister</td>
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<td>Prepare Financial Resolutions</td>
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<td>24 Feb</td>
<td>Dáil Committee Stage</td>
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<td>Check proofs after Committee Stage (Bills Office)</td>
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<td>Prepare proposed amendment briefs for Report Stage</td>
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<td>10 Mar</td>
<td>Dáil Report and Final Stages</td>
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<td>Check final Dáil proofs</td>
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<td>Prepare revised Explanatory Memo for Seanad stages</td>
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<td>23 Mar</td>
<td>Seanad 2nd &amp; Final Stages</td>
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<td>Check final Oireachtas proofs</td>
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<td>Finalise publicity material</td>
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<td>Finalise Staff Instructions, SOPs and Information Leaflets.</td>
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<tr>
<td>1 Apr</td>
<td>Deadline for signing by the President</td>
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Contact with Department of Finance

At all stages of the preparation for the Finance Bill continuous communication is maintained between the relevant RLS Branches and their respective contacts at the Department of Finance on all matters relating to the Bill's progress. Sensitive material should be transmitted using secure facilities.

RLS Co-Ordination

The process of bringing the work of all these contacts together for the purposes of actually producing the Bill is the task of the Co-Ordination function. In essence, this amounts to the management of all the various parts of the Bill so their progress through the legislative process can be tracked/monitored and steered toward successful publication. The co-ordinators are the points of contact between the branches and the business of printing and publication. The principal RLS co-ordinator works out of Direct Taxes Policy & Legislation Division (DTPL) who also functions as the co-ordinator within that Division. RLS Indirect Taxes has its own Divisional co-ordinator who looks after the process between the branches within that Division and corresponds directly with the principal co-ordinator as agreed between them. It is self-evident that Finance Timetable deadlines must be fully observed. Accordingly, the Co-Ordination function can sometimes be a pressurised situation. In these circumstances the value of establishing and maintaining good and clear communications between RLS and Finance co-ordinators cannot be overemphasised.

The Co-Ordination function does not involve itself with the legislative details of the respective sections of the Bill – this is the business of the specialised branches. The broad elements of the task are as follows:

General

- Establish clear and effective lines of communication between all co-ordinators and the Department of Finance, including updated contact list.
- Ensure that any requirements in relation to the use of dedicated secure servers for channelling sensitive material are in place.

The Budget

- Clarification of Finance requirements for Budget Day Financial Resolutions (FRs).
- Ensure Budget Day Financial Resolutions are submitted to the OPC for settling and stamping within the specified times.
- Management of printers proofs of FRs and the delivery of proofs to Finance Co-Ordinator after the proof-reading process.
- Collating of FRs and associated briefing for Finance and the Commissioners.
The Finance Bill

- Distribution of Finance Timetable relating to the Finance Bill.
- Ensuring drafters submit their drafts to the OPC within the specified times.
- Management of printers proofs and co-ordination of the proof with the Finance Co-Ordinator, and the delivery of proofs after the proof-reading process back to the printers.
- Delivery of draft Explanatory Memorandum material to Department of Finance in advance of publication of the Bill.
- Collation of all sections, Speaking Notes, and Detailed Notes for Main Brief for Finance and the Commissioners.
- Distribution of Amendments, production of Committee and Report Stage Amendments Brief.
- Proofing and collating of Committee Stage Financial Resolutions and associated briefing.
- Proofing of Ministerial Amendments for Committee and Report Stages and necessary liaison with Bills Office.
- Distribution of the Act when passed.

Attorney General's Office and the Revenue Solicitor

Complex legal issues may arise in the course of drafting legislation that may require RLS to seek the advices of higher legal authority. Reference can be made to the Revenue Solicitor's Office and that Office may directly seek the opinion of counsel. The matter may also need to be referred to the Attorney General’s Office for consideration.

Provisions that appear in every Finance Bill

Two sections that appear in every Finance Bill are the Care and Management of Taxes and Duties and the Short Title, Construction and Commencement sections. These are located in the Miscellaneous Part of the Bill and are invariably the final two sections each year. They are inserted in the Bill by RLS.

The Care and Management provision formally places all taxes and duties imposed by the Act under the care and management of the Revenue Commissioners.

The Short Title section gives the short title of the Act. As the name suggests, this differs from the Long Title (referred in Chapter 2 in connection with the Provisional Collection of Taxes Act 1927) that appears in bold capitals just before section 1 of each Finance Act. The section lists the various basic provisions (Income Tax Acts, VAT Acts, etc.) from which each Part of the Bill is to be construed.

Commencement dates for the various Parts are stated (as necessary).

Instructions are supplied by the Department of Finance directly to OPC for a Capital Services Redemption Account provision if required. Finance will alert RLS if any proof corrections are to be made to that provision.
Arrangement of Sections

This is the prospective Contents List of the proposed Finance Bill and it will be incorporated as part of the Bill. RLS takes responsibility for its creation which takes shape during the course of the lead up to publication. It sets out the order of the measures in the Bill and signals the respective taxhead category to which each section applies. RLS will send the OPC a copy of the provisional Arrangement of Sections indicating the Parts/Chapters into which the different sections should fall. Although these pages are not technically part of the Bill, the order in which the sections and schedules appear is technically a matter for the OPC. The Finance Bill is unique in the drafting function provided by the OPC. While all other Bills are stamped in their entirety by the OPC at one point in time, the Finance Bill is stamped piecemeal over a number of weeks as and when each section or schedule is settled. However the decision on the Arrangement of Sections is, as with any Bill, the ultimate responsibility of the OPC and any changes to the Arrangement of Sections would have to be cleared with the OPC.

Table of “Acts Referred To”

This is a listing by their short titles of all Acts (including previous Finance Acts) referred to in the Bill. It also includes groups of Acts referred to in the text of the Bill by their collective citation (e.g. Value-Added Tax Acts 1972 to 2003).

It requires a check of each section of the new Bill for such references. These Acts are listed once (even if referred to a number of times throughout the Bill) and normally in alphabetical and date order. There are two special cases to note on the alphabetical listing:

- The first case is where the difference in the title is only the date (e.g. Finance Act 1952, Finance Act 1960). These are listed alphabetically and by date.
- The second case to note is where an Act has “No. ____” in its title and there are similar entitled Acts (with or without “No. ____”) enacted before or after it (e.g. Finance Act 1981, Finance (No. 2) Act 1981, Finance Act 1983); in that case it will appear chronologically as if the “No. ____” was not there (e.g. in the above example, immediately after Finance Act 1981).

In addition every Act referred to in the “Acts referred to” (other than collective citations) gives its year and number opposite the reference to it (in the case of Acts of the Oireachtas) or, in the case of pre-1922 Acts, its regnal year and chapter number.

Memorandum for Government on the Finance Bill

This is a document prepared by the Department of Finance. It is presented by the Minister for Finance to the Cabinet and seeks formal permission from the Government to introduce the Finance Bill. It outlines the main provisions to be contained in the Bill and deals especially with new topics that may have emerged since the Budget or with items announced in the Budget to which there have been changes.

The Explanatory Memorandum

When the Finance Bill is published it is accompanied by a separate document called the Explanatory Memorandum. This contains a summary of each section of the Bill. The material for the Explanatory Memorandum is prepared by RLS and is then sent to the
Department of Finance where changes may be made but usually only after these have been agreed with Revenue.

The document has become quite a sizeable one and in 2004 ran to 29 pages. How much should be written about any one section in the Bill can vary and depends on the complexity of the provision being described. In addition to providing a summary of each individual section in the Bill, it may be desirable to include a note outlining the intentions behind parts of the Bill.

If it is proposed to make fundamental or far-reaching changes to some aspect of the tax code, consideration should be given to the production of an Explanatory Booklet/Information Leaflet for distribution amongst interested parties.

A further version of the Explanatory Memorandum is prepared when the Bill has passed all stages in the Dáil and is about to go to the Seanad for consideration. This later version will describe the updated contents of the Bill following its passage through the Dáil. As the Seanad has no powers to amend the Bill further the Explanatory Memorandum prepared for it will serve as a guide to the Bill’s provisions when it finally passes into law.

The OPC has no responsibility in respect of the Explanatory Memorandum and it is not settled by it.

Proofs and Proof Reading

Stamped copies of all sections for inclusion in the Finance Bill are sent by the OPC to the Department of Finance and photocopies are sent by OPC to Revenue. Finance makes arrangements with the printers to prepare for the printing of the Bill and is responsible for sending the material to them. The material is now increasingly in user-ready electronic format. The printers will prepare the material on their own system and will quickly produce early proofs.

Immediately proofs are ready copies are sent to RLS for urgent and thorough checking. Direct Taxes Policy and Legislation Division (DTPL) has traditionally undertaken the coordinating function for this aspect of the Finance Bill work. The proofs are distributed immediately they become available with details of the agreed deadlines by which the corrected material should be returned. All corrections from the different areas are entered into two master copies of the proof by DTPL. One of these is returned to the printers and the other is retained for use in checking later proofs.

The task of taking all changes on board and entering them in the two master proofs can be very time consuming. In order that it is carried out as efficiently as possible it is important that proof reading is carried out in all areas promptly and the proofs returned to DTPL by the times agreed. The corrections required should be shown on the text clearly and accurately.

A list of editing symbols most commonly used in the proofing process appears on the following page.
## Proof-reading marks

<table>
<thead>
<tr>
<th>Instruction</th>
<th>Textual Mark</th>
<th>Marginal Mark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insert the matter indicated in the margin</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Delete, take-out</td>
<td>✓ (through character)</td>
<td>✓</td>
</tr>
<tr>
<td>Set in or change format</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Substitute or insert punctuation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Start new paragraph</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Run on to next paragraph</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Insert space between</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Reduce space between</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Correct vertical alignment</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Correct horizontal alignment</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Indent</td>
<td>✓</td>
<td></td>
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<tr>
<td>Cancel indent</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Leave unchanged - correction made in error</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
The importance of the proof reading exercise cannot be over-emphasised. Errors that are not picked up and corrected in the proof reading of the Bill before publication will have to be put right by way of amendments moved by the Minister for Finance at the Committee Stage of the Bill. Where practicable, teams of check readers consisting of at least three members (one to call and two to check) should be assigned to this. If the volume of material to be proof read is substantial it should be broken up and allocated among a number of teams (if available) as this will result in a more effective and accurate outcome.

Depending on the amount of time available, as many as five or six proofs may be produced before the Bill is published. The early proofs will not necessarily be a complete representation of the final Bill as certain provisions may not be finalised. In certain circumstances it may be useful for proof reading to be rotated among different teams as an additional way to pick up errors in the draft.

A few further points about proofs and proof reading are worth mentioning:

- References in the Bill to other provisions of the Bill are printed in italics. The use of italics helps to highlight the cross-references in the text.

- Care must be taken to ensure that cross-references to other sections or to parts of the Bill, e.g. subsections or other sections, are correct. This is an important point to check - especially when a section (or sections) is added to, dropped from or relocated in the Bill.

- A check should be made to ensure that the numbering of the sections in the list of sections at the start of the Bill corresponds with the numbering appearing in the body of the Bill.

- The title of each section as set out in the ‘Arrangement of Sections’ should be checked against the rubric (sidenote) to the actual section to ensure that they are the same.

- The early proofs (especially, say, the first and second) should be check read using the OPC’s stamped copy as the basic document. It would be dangerous to use the first proof when reading the second as errors still in the text after the first read could be regarded as ‘right’;

- The first and subsequent proofs should be referred to in order to ensure that all corrections called for in them are made by the printers.

While the most demanding aspect of the proof reading process occurs prior to the publication of the Bill, there is a need for further checking following the completion of each stage of the Bill through the Oireachtas. Thus, the entire Bill must be checked again as follows:

- as passed in Committee Stage (strictly, as amended in the Select Committee on Finance and the Public Service);

- as passed by Dáil Éireann;

- as passed by both Houses of the Oireachtas.

Any amendments made to the Bill at the Committee and Report Stages in the Dáil must be correctly incorporated into the Bill. Consequential changes arising from these amendments must be watched for and carried into the text of the Bill.

The final proof of the Bill, i.e. as passed by both Houses, will be on vellum. It is a vellum copy of the Bill as signed by the President that becomes the Act.
e-Cabinet and e-Legislation

New technology will continue to broadly influence the means by which the legislative process functions at all levels of government and administration. Use of electronic formats and e-mails are now an accepted practice for communications generally. In relation to more sensitive documentation dedicated servers may be used to create secure channels of transmission of information. The respective co-ordinators should ensure that all appropriate arrangements affecting any such facilities are in place.

In future years technological developments will reflect themselves in the initiatives currently under way on e-Cabinet and e-Legislation. These are at an advanced stage; however, especially as it affects the legislative process and for the purpose of this Guide, the essential nature of the process will remain the same. New technology will facilitate faster and more direct communications, particularly significant in relation to the job of publication and printing of legislation, but the core nature of the role of RLS and the drafting function will, if anything, be reinforced.

The Bills Office

Throughout the period from publication to the eventual enactment of the Finance Bill, close contact is maintained with the Bills Office. That Office carries out its own reading of the Bill (as it does for all Bills). It is from the Bills Office that all proofs are received and returned once Committee Stage is reached.

White Print of the Bill

This is the draft version of the Bill that is considered by Government at a meeting or meetings held shortly before publication. It is normally printed following the corrections at late proof stage by which time the text will be in reasonably good shape. In considering the draft Bill, the Government will also have the Memorandum for Government together with the Explanatory Memorandum to the Bill. The Government will decide at this stage whether any proposed measures are to be dropped or modified and care will have to be taken that these decisions are reflected in the subsequent proofs of the Bill. The Explanatory Memorandum will also need to be changed, as necessary, to correspond with any such changes.
Chapter 8

Publication of the Finance Bill and the Initial (First and Second) Stages in Dáil Éireann
The First Stage of a Bill is to get the approval of the House concerned to have it printed and published. However under Standing Orders of both Houses, certain Bills, including almost all Government Bills, do not need to get this approval. The Finance Bill is published ‘as initiated’ on the date fixed by the Department of Finance as indicated on their Timetable. The Finance Bill is always printed on green paper (colour for Dáil Bills) since, as a Money Bill, it has to be initiated in the Dáil. The actual printing of the Bill and its accompanying Explanatory Memorandum takes place on the day/night before publication. It is usual for a number of RLS staff to attend the printers to make last minute changes and corrections where necessary. The Bill is circulated to Dáil Deputies and Senators and made available for sale to the public from Government Publications Sale Office, Molesworth Street, Dublin 2, and also on the web.

In recent years publication of the Bill has aroused considerable interest in the media and amongst tax practitioners and accountants. This is because the Bill often contains items, frequently of a technical nature, which were not announced in the Budget. Anti-avoidance measures will usually appear for the first time at publication stage. Also the Minister for Finance may have decided to alter or even not to proceed with items announced in the Budget. The publication gives rise to queries of varying complexity for RLS from members of the public, journalists and accountants/tax practitioners etc. Replies to enquiries are confined to explaining the provisions as published in the Bill. RLS provides factual information only on the Bill and does not enter into discussion concerning the underlying policy of the Bill’s provisions as this would pre-empt the forthcoming debates in the Oireachtas.

The Second Stage Debate

On the appointed date, which is usually within a week of the publication of the Finance Bill, the Minister for Finance presents the Bill to Dáil Éireann. The Minister commences the proceedings by moving a motion as follows:

I move: ‘That the Bill be now read a Second Time’
This may be somewhat confusing as the Bill has not been ‘read’ in the Dáil for the ‘First Time’ (the reading stages for a Bill reflect the Westminster parliamentary model; First Stage is the approval of the House of Parliament concerned to have the Bill printed and published on the basis of the long title – as read out by the Speaker of that House; in the Dáil and Seanad certain Bills, including almost all Government Bills, do not need this approval to publish).

The Minister is then given the floor to outline the contents of the Bill in the Second Stage speech. The Minister will usually preface the speech by stating that the purpose of the Bill is to give legislative effect to the provisions in the Budget as well as to provide for other legislation that the Government has decided on. The Minister will sketch the general economic background to the Bill before going on to outline in broad terms the main provisions of the proposed legislation. This speech is prepared by the Department of Finance but Revenue are likely to be consulted at senior level when the speech has been drafted. The Minister speaks for up to 45 minutes and has up to 20 minutes to reply to the debate.

Following the Minister’s speech Deputies from all sides of the House contribute to the Second Stage debate. This debate can often amount to a re-run of the Budget debate.

Revenue officials do not normally attend the debate. However, monitoring the debate can be useful in two respects:

1. It serves to highlight areas of contention amongst Deputies which can help RLS to concentrate Committee Stage briefing material where it is likely to be most needed, and

2. Deputies may announce their intention to put down at Committee Stage amendments to particular sections of the Bill and this enables RLS to prepare material in advance for reply to the points made.

To this end, transcripts of each day’s proceedings should be obtained from the Budget Section of the Department of Finance or from the Oireachtas website. Where possible officials responsible for drafting each section should be apprised of any salient contributions with regard to their area.

At the end of the period of time allocated to the Second Stage debate the Minister for Finance makes a speech to the Dáil. The Minister thanks those Deputies who have contributed to the debate and then addresses any criticisms made by the Opposition of the Bill’s provisions. The speech is prepared by the Department of Finance in consultation with Revenue as necessary.
Conclusion of the Second Stage

When the Minister for Finance concludes the Second Stage Debate the Ceann Comhairle ‘puts the question’ to the Dáil as follows:

‘That the Bill now be read a second time’

The Dáil may or may not vote on the question but when the motion is carried the Ceann Comhairle will ask the Minister for Finance when it is proposed to commence the Committee (Third) Stage. The Committee Stage is then ‘ordered’ to commence on that date. The order of the Dáil usually requires the Committee to consider the Bill in accordance with a time-limited schedule.
Chapter 9

The Committee Stage
This is the Third Stage of the Bill and is often considered the most important as it is open to amendment. Committee Stage can be considered by the whole Dáil sitting as a committee; however, the normal practice at present is for the Finance Bill to be referred to the Select Committee on Finance and the Public Service for consideration. This consists of government party members and opposition party members of the House and invariably includes the Finance spokespersons of the various parties.

The Committee Stage is dealt with in the Standing Orders of Dáil Éireann, specifically numbers 120 to 126 which can be summarised as follows:

- When the Bill has been read a Second time it will be ordered to be considered in Committee;
- Proposed amendments are to be notified to the Bills Office not later than 11 a.m. on the day before the Bill is to be considered;
- In Committee a Bill must be considered section by section;
- Any section in a Bill may be amended and new sections may be inserted.

The Committee Stage provides Committee members with the opportunity for a detailed examination and discussion of every provision of the Bill. While this tends not to happen in practice in the case of the Finance Bill, the recommended approach for RLS to the preparation of the Ministerial Briefing is that every aspect of the Bill may come up for debate and should be provided for accordingly.

It is fair to say the Committee Stage of the Finance Bill represents some of the most crucial and demanding aspects of the work of RLS. It gives rise to the preparation of a large amount of briefing material that may not only be extensive but also may have to be prepared at very short notice.

**Financial Resolutions in advance of Committee Stage**

In addition to Financial Resolutions (FRs) taken on Budget Day other Financial Resolutions imposing or increasing a charge on the people or withdrawing a relief are moved just before the Committee Stage of the Finance Bill. These Resolutions are essentially procedural in nature since their purpose is to comply with Standing Orders which
stipulate (No. 148(2)) that the Committee Stage of a Bill which involves, even incidentally, a charge upon the people shall not be taken unless a motion approving the charge has been passed by the Dáil.

These FRs relate to measures which do not need immediate statutory effect since, although they increase tax liability, they are not effectively applied until they come into force on the passing into law of the Finance Act. FRs of this kind are adequate to cover even measures which on the passing of the Finance Act are expressed to have come into operation on the previous 1 January - the beginning of the income tax year.

After publication, the Finance Bill is examined to determine which sections of the Bill give rise to Committee Stage FRs. Contact is then made with the Bills Office and the sections needing such FRs are agreed. Drafts of the FRs are prepared and sent to the OPC together with a brief note explaining their purpose. When these are agreed the OPC sends a stamped copy to the Department of Finance and a photocopy to RLS in the same way as is done with draft sections for the Bill.

FRs must be sent to the Bills Office, at the latest, by close of business on Tuesday of the week before Committee Stage commences because they must be translated into Irish and placed on the Order Paper for Thursday. This is the last opportunity for the Dáil to agree them before Committee Stage begins.

FRs moved in advance of the Committee Stage of the Finance Bill are invariably sketch Resolutions and they are usually quite short. This contrasts with the Budget Day FRs. A typical example of a sketch Resolution would run along the following lines:

‘That section W of the Finance Act 2003 (No.3 of 2003), which ...(state what section W does)..., be amended in the manner and to the extent specified in the Act giving effect to this Resolution.’

There is no fixed or rigid format that must always be followed in their drafting. However, it is crucial that the nature of the charging measure is brought to the attention of the Dáil by way of the FR.

A brief is prepared for the Minister on the Financial Resolutions. This comprises the text of each Resolution and a short note mentioning the section of the Bill to which it refers. It gives the gist of that section in a sentence or two and if there is a figure of yield from the measure that would also be stated. Generally, these pre-Committee Stage Resolutions are taken in the Dáil without debate. It is necessary, however, to have a brief so that the Minister is in a position to respond if asked to explain what a particular Resolution is about.

FRs can also be necessitated by Committee or Report Stage Amendments.
Ministerial Briefing for Committee Stage

A wide-ranging array of briefing material is prepared for the Minister in connection with the Committee Stage of the Finance Bill. This material is divided into a number of separate briefs which are described in the following paragraphs.

The Main Brief

This brief - usually described as the Committee Stage Notes - contains notes on every section of the Bill and is seen as the most important element in the overall briefing process. The notes are drafted by the person most involved (and therefore most familiar) with the section in question and the aim is to set down in straightforward language the purpose and content of the section.

The format, which has been adopted for these notes, is as follows:

- the section number appears at the top right corner of the opening page;
- the title of the section is then given;
- the opening note is the Speaking note;
- details of cost/yield (if any) and numbers of taxpayers affected by the particular section are given in a separate paragraph;
- finally, a Detailed Note completes the item.

The speaking note should be a general one, i.e. descriptive in a concise and general way. Ideally it should not exceed a page in length although inevitably there will be occasions when a longer note will be called for. It is the speaking note that the Minister will read out to the Committee. While being reasonably short it must also be comprehensive and should take account of what has been said by Deputies at Second Stage. Supplementary speaking notes should also be provided if it seems likely that questions or related issues will be raised.

If some major change to the tax system is being proposed a special longer speaking note should be considered. The Minister might wish to use the longer note to outline the thrust of the proposed change. For example, a complete chapter in the Bill devoted to a particular set of connected measures would suggest that a special speaking note should be considered.

The cost/yield/taxpayer numbers aspect should follow the Speaking Note. The Minister may well wish to allude to this statistical aspect of the provision in describing the measure.

The Detailed Note, which usually starts on a separate page, involves describing every aspect of the section. It must cover each subsection/paragraph/subparagraph/clause. Experience suggests that this element of the brief is rarely if ever actually used; however, it remains necessary to prepare a detailed note as the section may be examined closely in Committee.

Committee Stage Notes are sent to the Department of Finance some time before the date set for the Committee Stage as the Minister may wish to become familiar with their contents. Indeed, where possible, the relevant section in the Department should be consulted at the drafting stage in relation to the content.
Not infrequently it may happen in the preparation of the Committee Stage Notes that a particular unforeseen weakness or shortcoming in the proposed legislation becomes evident. If so, corrective action can be taken by way of an appropriate amendment. In view, in particular, of the value of the process in identifying shortcomings or weaknesses in the proposed legislation, the preparation of the Committee Stage Notes should be undertaken as early as possible. The notes also provide an invaluable record of the legislation and its history for future reference.

**Additional (or ‘back-up’) Brief**

In briefing the Minister the Additional Brief has come to play an increasingly important role. This brief developed from an earlier practice of including in the Main Brief extra material that, while not immediately related to the particular provision that was being described, is nonetheless relevant in a more general context. It has grown in importance because of a trend that has been emerging whereby topics not directly arising from particular provisions in the Bill have been introduced in the course of the debates. Committee Stage amendments to the Bill may provide scope for widening the range of the matters that come up for discussion.

The Additional Brief refers to the Bill on a section-by-section basis. The number of back-up notes varies from section to section depending on the provision involved.

Copies of the Additional Brief are retained by the officials servicing the Minister in the Committee Room. A copy should be available to pass to the Minister should the need arise. Having these Additional notes ready in advance means there is less pressure on officials while the debate is going on and leaves them in a better position to deal with other points that arise in the course of the debate. It also means that the Minister’s reply can be made with the minimum of delay.

In preparing these notes all provisions in the Bill must be carefully examined from as many angles as possible for clues as to what might be raised in the debates. Any provision that contains conditions related to e.g. income levels, exclusions of certain categories of persons, etc., can be expected to trigger criticism or calls for relaxation of whatever conditions are set down. Views from specialist bodies or lobby groups on provisions of the Bill may give a lead as to what to expect. So too would representations received by the Minister, the Department of Finance or Revenue from professional bodies such as the Law Society or the Irish Taxation Institute and other interested parties.

It goes without saying that not all issues can be anticipated and these have to be dealt with by the officials present for the debate to the best of their ability. The notes for the Additional Brief should be:

- short - keep them to the minimum length;
- to the point;
- presented in point or ‘bullet’ format if possible;
- understandable.

The use of a highlighting marker when passing notes to the Minister during the debates may be useful in drawing attention to particular aspects of the note.
The Statistical Brief

A separate Statistics Brief is prepared by Revenue’s Statistics Branch each year for use in connection with the Finance Bill. The statistics included go way beyond figures relating to the actual measures contained in the Bill. The brief is similar to the Additional Brief in attempting to anticipate the statistical material that is likely to be called for in the course of the debates.

Committee Stage Amendments

The Committee Stage of the Finance Bill presents the first opportunity for amendments of the Bill to be proposed. These amendments may be either (a) Ministerial (Official) or (b) Opposition (Unofficial). The latter are tabled in the name of Opposition Party spokespersons on the Committee but all Deputies who are members of the Committee or are nominated as a substitute for a member of the Committee in the House may also put down amendments. Any other member of the Dáil has the right to attend and take part in proceedings without the right to move amendments.

Ministerial Amendments

Amendments to the Finance Bill at Committee Stage in the name of the Minister are made for a number of reasons. Entirely new sections may need to be included. Although this practice should be avoided if possible, it may occur if proposals are late coming forward for consideration or if the legislation on a particular item is complex with the result that it is delayed. The Government may have decided that certain provisions of the Bill as initiated are to be modified either as a matter of basic policy or to take account of representations made in regard to particular measures. It may also be necessary to have Ministerial amendments to correct matters that have been discovered in the Bill as published. If there are doubts as to the likely effectiveness of a particular section or sections the opportunity afforded by the Committee Stage should be availed of to put matters right.

Ministerial amendments are also required to correct any printing errors that were not eliminated from the proofs of the Bill before publication and which appear in the Bill as initiated. Apart from being an unwelcome feature in the Bill, amendments to correct these errors may expose the Minister to unnecessary and avoidable criticism in the Committee.

Ministerial amendments are prepared in the same manner as legislation and must be agreed and stamped by the OPC in the normal way. It is important that the proofs of these amendments are checked with the same care as proofs of the Bill. If an amendment for which a stamped draft has been supplied by OPC is not moved or it is decided that it will not be moved, the OPC should be advised accordingly.
Opposition Amendments

The Opposition Parties may put down amendments to the Finance Bill at Committee Stage. These precede Ministerial amendments in the debate. Opposition amendments that impose or increase a charge on the people (or restrict a relief or withdraw an allowance) are not permitted. Such amendments will be ruled out of order by the Committee Chairman.

When details of the Opposition amendments are received from the Bills Office the first task is to go through them and form a view which of them may be ruled out of order. This decision is the Committee Chairman’s job. The Bills Office (which is part of the Ceann Comhairle’s Office) should be alerted as to the amendments which RLS considers are not in order. An amendment that is ruled out of order will appear on the published list of amendments for debate at Committee Stage. However when such an amendment is reached in the debate the Committee Chairman will announce the ruling that it is out of order and it will not be discussed. The subject matter of an amendment ruled out of order may nonetheless arise in discussion on the section.

As already mentioned, the transcripts of the Second Stage debate should be checked as they can give pointers to at least some of the items likely to become the subject of Opposition amendments.

Committee Stage Amendments Brief

A separate brief is prepared for the Minister in order to deal with the Committee Stage amendments. The brief is compiled by the Department of Finance using material supplied by RLS. All Ministerial amendments and those of the Opposition that are in order are incorporated in this brief. The amendments are numbered and are debated in sequence by the Select Committee. They follow the order of the sections in the Bill to which they relate, followed by the schedules and any proposed amendment to the long title. Occasionally amendments will be put down that do not relate to any particular section (for example, an amendment to introduce a new section) but it will be spelt out in the introductory wording to these amendments where precisely they are intended to appear vis-à-vis the existing sections. Listings such as ‘Section – opposed’ are not amendments – these are merely indications of intent to oppose a section. No briefing note is needed for such an item - the Main and Additional Briefs will be used when that item is reached.

The format of the amendments brief is the same for all amendments. The title of the Bill, the Stage (Committee) and the number of the amendment appear at the top of the opening page of the note. The text of the amendment is then quoted followed by the name of proposer (either An tAire Airgeadais, for Ministerial amendments or the Opposition Deputy for others).

A note for the Minister follows next. This sets out the purpose of the amendment and explains why (for a Ministerial amendment) it is being proposed or why (in the case of an Opposition amendment) the Minister will not be accepting it. The note will be read out by the Minister if that amendment is reached and so it should be clear, concise and comprehensive. An indication should be given of the cost of or yield from the proposed amendment and also the number of taxpayers who would be affected by the amendment.
The preparation of notes for Ministerial amendments will generally be a reasonably straightforward matter in as much as they will have been known of well in advance. Opposition amendments can present difficulties. While up to a month may elapse between the publication of the Bill and the debate on the Committee Stage, the amendments from the Opposition tend not to be sent to the Bills Office until a day or two before Committee Stage. All amendments must be put down by 11 a.m. the day before (later only at the discretion of the Chairman and in exceptional circumstances).

Effective management of a large number of amendments at short notice demands very efficient use of the available staff resources. Amendments are allocated to the persons who have been most involved with the provision to which the amendments relate. Amendments not related to any specific measure in the Bill are allocated on a general basis.

**How to deal with Amendments**

The line to be taken in responding to certain amendments will be clear. Others may not be so obvious. Research will have to be carried out urgently given the time constraints involved. It is important to remember that amendments to any given section in the Bill will be discussed in advance of that section - indeed it generally happens that there will be no debate on the actual section but rather only on the amendment proposed to the section. This underlines the importance of preparing effective and comprehensive briefing on each amendment. It will also be found that the Additional Brief will be useful in dealing with points that arise in the debate on the amendments.

Certain Opposition amendments may be repeated from one year to another. However, in responding, it is important to ensure the continuing validity of any arguments that are being used again and to include new issues to reflect any changes in circumstances that may have taken place in the meantime. Additionally if an identical amendment was dealt with in a previous year it is advisable to vary the wording (though not the thrust) of the response so as to avoid a purely repetitious reply by the Minister.

**Grouping of Amendments**

Having amendments dealt with in groups obviates the need for a certain amount of briefing. The purpose of grouping is to avoid repetition of debate by ensuring that amendments addressed to related points are discussed together. Groupings are the prerogative of the Chairman and are usually determined by the Bills Office in discussion with RLS. Decisions on amendments are made in sequence. Grouping of amendments should be determined in consultation with the Bills Office and when this is done the amendments so grouped will be discussed together at Committee Stage. This device can be used for both Ministerial and Opposition amendments and involves related, alternative (consequential) amendments. Where as a consequence of an amendment a further amendment(s) is necessary, or if an amendment relates to the same thing (cognate), each of the amendments may be regarded as part of a grouping. One overall briefing note for the Minister on the grouping is sufficient as the group will be debated together. The agreed grouping will be reflected in the briefing note so that the Minister is aware of what is to happen.
Format of Committee Stage Debate

The first business to be disposed of is the Financial Resolutions (FRs). These are moved in the Dáil. Once these have been dealt with, the Committee Stage debate proper begins in the Committee Room. Amendment Number 1 is moved by its proposer who speaks in support of it. Committee members may wish to contribute to the debate and when the various contributions have been made the Minister responds to the proposed amendment. Using the Amendment Brief the Minister will outline reasons for opposing it. Occasionally an Opposition amendment may be accepted (often of a minor nature) perhaps as a way to make some small concession. This happens only rarely and the Minister may also decide to consider a proposal between Committee and Report Stages without giving any commitment.

When the subject matter of the amendment has been fully discussed - the Minister will most likely have responded a number of times to points raised - the Deputy who moved the amendment may withdraw it or may wish to have it put to the Committee. Unless withdrawn the Chairman will then put the amendment to the Committee. An amendment that is put at Committee Stage may be put again by way of a Report Stage amendment. This is the case even if the amendment is voted down at Committee Stage, or if it is not formally voted on. This is subject to the amendment, or the subject matter to which it relates, having arisen at Committee Stage.

Attendance of RLS Officials

Officials from the RLS and Statistics areas of Revenue and representatives from the Department of Finance will be in attendance in the Committee Room during the debate to assist the Minister as necessary. Names of officials likely to be involved in attending the Dáil and Seanad should be compiled by the co-ordinators in RLS who must send them beforehand to the co-ordinators at the Department of Finance so as to allow them in turn to notify security personnel at Leinster House accordingly.

As seating in the Committee Room reserved for officials may be limited only a small number of officials may be present at the same time. Other officials wait in a room nearby where they may follow proceedings on a monitor.

When Opposition amendments to a particular section have been disposed of it will be proposed by the Chairman that the section in question stand as part of the Bill. This may be agreed to or the provision of the section itself may then be debated. At the conclusion of this discussion a vote may be called for on the section. If this happens officials must leave and return again only when the result has been declared. The Committee then moves on to consider the next section of the Bill or an amendment to it if one is listed.

Duration of Committee Stage

The Government and Opposition Whips agree in advance the period over which the Bill is to be considered in Committee. With the Budget normally presented on the first Wednesday in December and, bearing in mind the four-month life of FRs under the Provisional Collection of Taxes Act 1927, the Committee Stage will usually be taken in the month of February.
There is no specified number of days that must be devoted to the Committee Stage but it will normally extend over two or three days.

In an effort to try and ensure that the debate touches on all areas of the Bill an allocation of time or guillotine motion is normally moved in advance of the Committee Stage. This is to the effect that by specified times the debate will have to conclude on specified parts of the Bill. When an agreed time is reached all amendments standing in the name of the Minister for Finance and any Opposition amendments for which the Minister indicates acceptance in advance (and only those) relating to the sections in the specified Parts/Chapters of the Bill allocated to that period of time are agreed by way of a single question (the ‘guillotine question’) put at the conclusion of the debate. The advantage of these time allocations is they enable Deputies, if they so wish, to direct their attention to particular measures that they may be anxious to discuss. Allocation of time motions normally contain a provision that debate on a particular portion of the Bill (Chapters and Parts) shall conclude not later than a given time. Thus if debate on a portion of the Bill ends before that time the Committee can proceed to debate subsequent provisions. While this does not happen very often, officials should be aware of the possibility and bear it in mind when arranging to attend the Committee Stage.

It often happens that many sections in the Bill are not debated at all. This is probably inevitable given the number of provisions that have been a feature of recent Finance Bills coupled with the numerous amendments to the Bill that are generally tabled.
Chapter 10

The Report (Fourth) and Final (Fifth) Stages in the Dáil
Chapter 10
The Report (Fourth) and Final (Fifth) Stages in the Dáil

The Report Stage

This is where the outcome of the Committee Stage is reported back to the Dáil for consideration. Commencement of Report Stage usually happens shortly after the conclusion of Committee Stage. It is normal to have a fairly short period of Dáil time set aside for the Report and Fifth Stages.

At the Committee Stage the Bill is considered on a detailed section-by-section basis. The Report Stage allows the Dáil to look at the Bill generally. Amendments can be put at Report Stage and the debate will focus on any such amendments.

Report Stage Amendments

Any member of the House may table an amendment at Report Stage. These are published in advance by the Bill’s Office. It is not unusual to find the same or similar Opposition amendments on the Order Paper as appeared at the Committee Stage but there are some restrictions on the repetition of amendments and certain amendments may be ruled out of order. This ruling is a matter solely for the Ceann Comhairle.

Guidelines on the kind of amendments that are not allowed are as follows:

- An Opposition amendment that creates a charge upon the public revenue or on the people is not allowed (similar to the Committee Stage).
- Only amendments that arise from proceedings in Committee may be debated. The Report Stage amendment must have been the subject of discussion during the Committee Stage. Very often during the Committee Stage debate either the Minister or an Opposition Deputy will signal an intention to raise an issue by way of amendment during the Report Stage.

Recommittal of the Bill

In the event that an amendment which breaks those rules listed above is deemed necessary there is a mechanism in Standing Orders to facilitate this. This mechanism is by way of a motion for the recommittal of the Bill.

This motion will propose that the Dáil returns the Bill to Committee Stage for the purpose of discussing the proposed amendment. If the motion is successful this reversion to Committee will occur immediately. On disposal of the matter the Dáil will return to the
Report Stage. This procedure is not a common occurrence in the context of Finance Bills. In practice, it is only likely to occur where the Minister wishes to put down an amendment that would otherwise be out of order. This only arises if a serious error or omission in the Bill is discovered too late for Committee Stage amendment and it is not permissible within the rules for Report Stage to put down a Report Stage amendment.

Drafting of Amendments and Report Stage Briefs

The list of amendments will be published on the morning of the Report Stage debate. It will be necessary to prepare a brief in respect of each amendment. The Bills Office should be consulted on the question of which amendments are likely to be ruled out of order. The order of the brief should follow the Order Paper. Amendments are listed on the Order Paper in numerical sequence according to the page and the line number of the Bill to which each amendment refers. They will also be debated in this order. This differs from the Committee Stage where use is made of section numbers and references can be made to subsections and paragraphs in the wording of an amendment. Where the time for debate runs out, Opposition amendments will lapse while amendments tabled or to be accepted by the Minister will be agreed by way of a single ‘guillotine question’.

Generally, Ministerial Report Stage Amendments may be necessary to correct minor errors or close a loophole identified after the time limit for Committee Stage amendments has expired. Such amendments should be avoided but in general it is better to amend the Bill wherever problems are identified rather than wait for the next Finance Bill. A draft of the amendment is prepared and referred to the OPC for approval. Proofs of these amendments must be checked carefully. In the case of Report Stage amendments this process can be condensed into a few hours. Obviously any advance preparation possible should be undertaken and consideration should be given to a draft provision cleared by the OPC if there is a strong likelihood the Minister will make an amendment. If an amendment for which a stamped draft has been supplied by OPC is not moved or it is decided that it will not be moved, then OPC should be advised accordingly.

Report Stage Speaking Note

For each Report Stage Amendment a Speaking Note should be prepared which either states the case in favour of a Ministerial amendment or the reasons why an Opposition amendment is opposed.

The note should be comprehensive as the procedure at Report Stage is to allow the Minister only two opportunities to respond to an Opposition amendment. This contrasts with the position in the Committee Stage in which the debate moves to and fro between the Minister and the Opposition without any restrictions/limitations on the number of contributions.

Use may be made of material in the Main Brief or in the Additional Brief prepared for the Committee Stage. Officials attending on the Minister in the chamber should provide themselves with copies of these as in the Committee Stage. Additional material may also be prepared in respect of any anticipated supplementary issues. However time constraints may limit the extent to which such material can be prepared in advance.

RLS co-ordinators compile the brief for the Minister on behalf of the Department of Finance.
Dáil procedure in respect of Report Stage Amendments

At the end of the debate on an amendment the proposer may withdraw it. Alternatively the amendment may be agreed to - this is often the case with Ministerial amendments especially if they are technical in nature. If not withdrawn or agreed, the amendment is put to the House for decision. The proposer may call for a division. At that point officials must leave and return again only when the result has been declared and debate resumed on the next amendment.

Fifth (Final) Stage

At the end of the Report Stage an order for the Fifth Stage is made. The Fifth Stage is taken immediately upon the conclusion of the Report Stage. This last Stage is usually a formality. The motion put to the House is ‘That the Bill do now pass’. Debate usually consists of the Minister and Opposition Party spokespersons making winding up speeches expressing thanks and making general remarks upon the debate in the House. It is not permitted for a Member to pose questions or raise more issues at this stage but officials should remain in attendance in the ante-room in anticipation of an issue arising on which the Minister might require briefing.

Fifth Stage Amendments

Standing Orders limit amendments during the Fifth Stage to ‘verbal amendments’ only. This relates to the amendment of simple errors (those corrected without changing the meaning) in the Bill that have been overlooked or missed but no substantive amendment can be made at this stage. Neither can the mechanism of Recommittal of the Bill be employed at the Fifth Stage. As a general rule, amendments which are proper for consideration at Committee or Report Stages are substantive in their own right and should not be discussed at Fifth Stage.
Chapter 11

Seanad Éireann and Signature by the President
The Role of Seanad Éireann

The Constitution provides that every Bill initiated in and passed by Dáil Éireann must be sent to Seanad Éireann. The Finance Bill is a Money Bill and certain constitutional restrictions are imposed on the Seanad in the consideration of such Bills.

- The Seanad cannot initiate a Finance Bill.
- The Seanad cannot amend the Finance Bill - it may merely make recommendations for change.
- The time allowed to the Seanad to consider the Finance Bill, provided it is certified as a Money Bill, is abridged from 90 days (as is usual for other Bills) to 21 days. In practice the Finance Bill is more likely to be dealt with within a week of its referral by the Dáil to the Seanad.

In view of the restrictions on the Seanad in relation to the Finance Bill the passage of the Bill through the Seanad has fewer pitfalls than in the Dáil. Also the debate in the Seanad is usually much shorter. Otherwise procedure in the Seanad is very similar, although not identical in every respect, to that applying in the Dáil and therefore much of the material prepared for the Dáil Stages will be re-used in the Seanad.

Bill as passed by Dáil Éireann

Following the Final Stage of the Finance Bill in the Dáil a further version of the Bill is printed. This version is headed ‘As passed by Dáil Éireann’.

A revised version of the Explanatory Memorandum is also produced at the end of the Dáil debate. This Memorandum accompanies the Bill on referral to the Seanad and reflects the provisions of the Bill as passed by the Dáil. Depending on the extent of the amendments to the Bill made in the Dáil, the Memorandum may require substantial amendment at this stage.
Second Stage
As a Bill passed by Dáil Éireann, the Finance Bill is automatically deemed to have passed its First Stage in the Seanad. The Seanad’s consideration of the Bill therefore begins at the Second Stage. This Stage is opened by a general statement by the Minister covering the contents of the Bill in broad terms. It may also briefly cover budgetary and economic matters. Revenue officials are not concerned with this part of the Seanad proceedings, other than to give their views, if requested, on the Minister’s Statement as drafted by the Department of Finance.

The Seanad has 21 days to consider the Bill from the date of its referral by the Dáil but the debate in the Seanad is normally guillotined. Two days are usually set aside for the Finance Bill with the Second Stage taking up at least one day.

At the end of the Second Stage the Minister responds to the Senators’ comments and there will usually be a division on the question put ‘That the Bill be now read a Second time’.

Although Revenue is not directly involved in the Seanad Second Stage it is desirable that the debate be monitored for the same reasons as apply to the Second Stage in the Dáil. However, as the time between the ending of the Second and the taking of the Third (Committee) Stage may be very short the amount of additional briefing which can be provided will be limited.

Committee Stage
The remaining Stages will normally be taken immediately on the conclusion of the Second Stage - unless of course there is no time on that day in which case consideration of all remaining Stages will be deferred to the next sitting day. As in the Dáil the Third (Committee) Stage in the Seanad allows for a section-by-section consideration of the Bill. In practice there is little time to do anything other than to debate the recommendations and formally agree the sections. Nonetheless the Minister must be equipped with a brief on the Bill as detailed as that provided to him in the Dáil. Additional material must be provided to the Department of Finance on any new provisions inserted at Committee or Report Stages in the Dáil or any amendments to other provisions. The material for these revisions to the brief will have been prepared in the context of the Dáil proceedings. All that will now be required is to tailor them for the Seanad.

Additional Brief
This will be the Additional brief used in the Dáil updated and amended where appropriate. The debate during the Second Stage in the Seanad may give pointers as to the kind of issues Senators will raise in Committee and, where possible, officials attending on the Minister should prepare briefs or inform themselves of the issues involved.
**Seanad Recommendations**

In the event that a Seanad recommendation succeeded the Bill would then have to be referred back to the Dáil.

The list of proposed Seanad recommendations for the Committee Stage will be published in advance. Many of these recommendations will repeat amendments put down by Opposition Party spokespersons in the Dáil and may require only a revision of the papers prepared for the Dáil. If a recommendation repeats a Dáil amendment which was debated, the brief should be recast to avoid exact repetition of what was said in the Dáil and to take account of points made in the course of the Dáil debate on the topic. In general, however, there will be fewer Senate recommendations than Dáil amendments. The order in which the recommendations are listed follows the section numbering of the Bill to which a recommendation refers. The Minister’s response to the recommendation should be set out concisely. Invariably the Minister will oppose the recommendation.

If necessary an Additional brief may be prepared on a recommendation if debate on the recommendation is likely to raise other issues. At the conclusion of the debate on a recommendation the proposing Senator may withdraw the recommendation. If it is not withdrawn the Cathaoirleach will put the question to the House by saying ‘The question is that... (followed by the text of the recommendation)’. If, in the Cathaoirleach’s view, the majority of those present are against the question the proposing Senator may request a division which is then held behind locked doors and in the absence of officials and also the Minister as the Minister is not a member of the Seanad.

**Fourth (Report) Stage and Fifth Stage**

The Bill will next proceed to the Fourth Stage. This will normally occur immediately upon the completion of the Committee Stage. Senators may again propose recommendations. However, no recommendation that has been rejected at the Committee Stage may be put forward again. A recommendation that has been withdrawn at Committee Stage may be repeated. Other restrictions imposed upon the Report Stage amendments in the Dáil also apply to Seanad recommendations. In practice the Report Stage in the Seanad is largely procedural and the Bill will usually be declared reported without recommendation. The Fifth Stage will be no more than an acknowledgement that the Bill is received for final consideration. At this stage Bills which are not Money Bills are declared passed by both Houses. As a Money Bill the Finance Bill must be returned to the Dáil. The Seanad sends a message to the Dáil informing that the Bill has passed without recommendation.

On the Bill’s return to the Dáil (as a Money Bill, not longer than 21 days after it was sent to the Seanad – see Article 21.2.1° of the Constitution) the Ceann Comhairle informs the House that the Seanad has accepted the Finance Bill without recommendation. The Bill is then deemed passed by both Houses of the Oireachtas and is ready for signature by the President.

In the event that the Seanad does pass a recommendation the Bill is returned to the Dáil, or if the Seanad does not return it to the Dáil within 21 days, then Article 21.2.2° of the Constitution has effect. Article 21 provides as follows:
Article 21

1. 1° Money Bills shall be initiated in Dáil Éireann only.
   2° Every Money Bill passed by Dáil Éireann shall be sent to Seanad Éireann for its recommendations.

2. 1° Every Money Bill sent to Seanad Éireann for its recommendations shall, at the expiration of a period not longer than twenty-one days after it shall have been sent to Seanad Éireann, be returned to Dáil Éireann, which may accept or reject all or any of the recommendations of Seanad Éireann.

   2° If such Money Bill is not returned by Seanad Éireann to Dáil Éireann within such twenty-one days or is returned within such twenty-one days with recommendations which Dáil Éireann does not accept, it shall be deemed to have been passed by both Houses at the expiration of the said twenty-one days.

**Signature by President**

The Constitution provides (Article 25) that as soon as any Bill is passed by both Houses of the Oireachtas the Taoiseach shall present it to the President for signature. Signature in the normal course must take place not earlier than the fifth day and not later than the seventh day after the Bill has been presented. However, the Government may decide to request the President to sign the Bill earlier than the fifth day. In that case they must get the prior agreement of the Seanad. Accordingly, the last act of the Seanad in dealing with the Finance Bill, and after its return to the Dáil is ordered, may be to agree a motion for early signature. It is usual for the Finance Bill to get early signature so that it may become law before the expiration of the four months since Budget Day. This is necessary to prevent time running out on Resolutions passed on Budget Day.

The only RLS involvement in the signature of the Bill by the President is in ensuring that the actual copy of the Bill to be signed is correct. This is yet another, and final, proof reading exercise. Copies of the ‘vellum’ copy are sent to the various drafting areas for proof reading. The discovery of errors at this stage could cause problems. Any change to the vellum copy is a serious issue and any correction can only be made on the instructions of the Clerk of the Dáil. The Clerk has limited authority to make corrections to minor errors that have gone unnoticed during earlier proof reading. There is an important proviso to this. The correction must be to an obvious error and must not in any way alter the interpretation which could be put on a provision. In this context the addition or deletion of punctuation could be a particularly sensitive matter. If the Clerk cannot make a correction the Bill will be signed with the error in place and the matter will have to await an amendment in the Finance Act of the following year.
Chapter 12

After the Finance Act
Chapter 12

After the Finance Act

The signing of the Act brings into law many changes and amendments in the various taxes and duties under the care and management of the Revenue Commissioners. These changes and amendments must be reflected in terms of the practical implications they have for both Revenue staff and taxpayers in general. To this end RLS follow up the signing of the Act by undertaking a number of tasks. These include the preparation of the following:

- Statutory Instruments
- Guidance notes
- Reports to EU/OECD
- Statements of Practice
- Other Leaflets and online information

**Statutory Instruments**

These are a form of secondary legislation designed to supplement provisions in primary legislation. Statutory Instruments (SIs) will be considered in more detail in the next chapter.

**Guidance Notes**

RLS prepare comprehensive Guidance Notes to the new Act to explain the implications and effect of the various sections.

Guidance Notes on all sections for the Taxes Consolidation Act 1997 are also available and these are updated to reflect the changes made to that Act by the Finance Act that has just been enacted. All sets of Guidance Notes are available on the Revenue website.

**EU/OECD**

Immediately following the Budget in December reports are sent to the EU and OECD outlining the main budgetary provisions and proposed legislative amendments. This exercise is repeated after the passing of the Finance Act. The purpose is to update the initial Budget reports and include Finance Act provisions that may not have appeared in the Budget reports.
Statements of Practice

Certain areas of Revenue tax administration and practice may not be very well known or properly understood by taxpayers and practitioners. Statements of Practice are issued occasionally to help resolve such difficulties. Where practice changes the statements are updated or new statements issued.

The preparatory work for issue of a statement is similar to the initial stages of drafting either regulations or orders (see Chapter 13).

Other Leaflets/Guidance Notes

All leaflets or guides should be updated after each Finance Act. There is a comprehensive ‘Guide to VAT’ issued about every three or four years. An amendment slip is updated following each Finance Act and issued with each Guide pending re-issue of the Guide itself.

Following the passing of the Finance Act each year RLS produce an information leaflet titled ‘Brief Note on certain Taxes and Duties payable in Ireland’.

RLS inform the public of any excise changes by means of Public Notices, Press Advertisements and Press Releases as appropriate. Traders are also made aware of the changes by means of amendments to the Customs and Excise Tariff which are circulated to those traders who are subscribers to the Tariff. Customs and Excise officers are informed of the changes by amendments to their standing instructions which are contained in the Customs Codes and General Orders.

A non-statutory consolidation of relevant Acts may be produced for internal use immediately after publication of a Finance Act. This is frequently a feature for RLS Indirect Taxes.
In Chapter 1 the distinction was made between primary and secondary legislation. The Finance Act is a good example of primary legislation. However, arising out of such an Act there can be a need to make supplementary legislative measures as provided for by an Act. This is the task of secondary legislation and the main instrument of secondary legislation is the Statutory Instrument.

As with Acts, Statutory Instruments (SIs) are to be interpreted (unless otherwise provided for) in accordance with the Interpretation Act 2005. In addition the Statutory Instruments Acts 1947 and 1955 apply to most statutory instruments. These define an SI as being an ‘order, regulation, rule, scheme or bye-law made in exercise of a power conferred by statute’. The important thing to understand is that SIs are secondary legislation – they derive from, and are subject to, primary legislation – and are intended to provide support for primary legislation.

For all SIs care must be taken to ensure that the scope or authority of the primary legislation is not exceeded. If it is exceeded in any way it may be subject to challenge in the Courts. There have been a number of cases where SIs have been struck down by the Courts on the grounds that they were ultra vires i.e. they had exceeded the powers conferred by the primary legislation.

In 2003 the Office of the Parliamentary Counsel (OPC) published a drafting manual on SIs entitled “Statutory Instruments: Drafting Checklists and Guidelines”. It was made available to all Government Departments as well as the Revenue Commissioners. It provides a detailed drafting checklist and comprehensive guidelines for all issues relating to SIs.

In 2007, a new electronic system for the processing of SIs was introduced, for which the Government Supplies Agency (GSA) is responsible. This has been developed to allow faster and more accurate production of SIs in both final printed format and in electronic format suitable for placing SIs on the online Irish Statute Book: www.irishstatutebook.ie. The principal feature of the new system is that SIs will be converted into the required print-ready and web-ready formats prior to the SIs being signed into law. In practice, this means all proofing must be undertaken in advance of signing, but apart from this the SI process remains the same as before. The new system serves to simplify and standardize the entire process and should work to make the business of producing SIs less onerous and more efficient. The new system is accessed at the following web address: www.cahill-printers.ie/cios/SIS.Logon.asp. It will be necessary to register as an official user. Full instructions and guidelines as to how the new system operates is available on the website. A Revenue checklist of this process is set out in a table at the end of this chapter.
Orders and Regulations

Most SIs produced by RLS deal with administrative matters. They are made under specific provisions of an Act and predominantly take the form of Orders or Regulations. It will be made clear in primary legislation whether the SI required is to be an Order or a Regulation.

An Order is made in respect of a single exercise of a delegated power (e.g. a commencement order – see below) or an instrument which does not need to deal with the setting down of a regulatory framework, etc. (e.g. a power to settle fees by instrument with no other power, would normally be an order) The following is an example of the clause used in primary legislation allowing for the Minister to make an Order:

‘This section comes into operation on such day as the Minister for Finance may appoint by order’.

Regulations contain detailed provisions relating to the general substance of the primary statute. In respect of Revenue matters, Regulations are instruments that are made by the Minister or by the Commissioners as provided for by the Act. Ministerial consent is required for Regulations that have Exchequer implications. The following is an example of the clause used in primary legislation allowing for the Revenue Commissioners to make Regulations:

‘The Commissioners may, for the purposes of ………., make Regulations’.

In the case of Regulations involving income tax/corporation tax/capital gains tax, the RLS has been requested to advise the Department of Finance of the intention to make such Regulations. About four weeks notice should be given and a copy of the proposed Regulation and the Explanatory Note should be sent to the Department of Finance so that the Minister may be alerted.

VAT

VAT Orders and Regulations provide a useful example of all issues relating to SIs. The remainder of this Chapter (other than the examples referred to under Dáil Involvement as mentioned below) will use VAT to illustrate a number of issues.

Orders and Regulations in the VAT area are explained as follows:
VAT Orders deal with money matters e.g. refunds of tax, changes in rates, exemptions, etc.
VAT Regulations deal with more administrative matters e.g. invoices, records, accounting procedures, etc.

Consent of Minister

The consent of the Minister for Finance is necessary for certain Regulations where there are potential financial implications.
Dáil Involvement

There are two forms of Dáil involvement in SIs made by Revenue or the Minister for Finance (similar Seanad involvement can arise in other types of legislation):

Example 1 - laid in draft (section 126(6)(b) of Taxes Consolidation Act 1997):

‘(b) Where an order is proposed to be made under this subsection, a draft of the order shall be laid before Dáil Éireann, and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.’

Example 2 – laid after it is made (section 122(7) of Taxes Consolidation Act 1997):

‘(7) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.’

Prior to drafting, interested parties, such as other areas of Revenue, other Departments, trade associations, professional bodies, etc., are contacted as required. It may also be necessary to arrange meetings with interested parties, but the requirements in this area will vary from case to case. For minor matters or those of a purely administrative nature it may not be necessary to consult any outside interests. It may also be necessary to obtain technical advice outside the Revenue, e.g. from Universities or from some of the interested parties listed above. Any source available may be used subject to the degree of confidentiality of the proposed legislation.

EU VAT Directive 2006

As explained in Chapter 3 Ireland’s VAT legislation must conform to EU VAT law. The VAT Directive 2006, is of major importance and should be considered before any drafting of SIs is undertaken. Normally, a Directive is transposed into domestic law through the Finance Act. However, in some cases, an SI may be appropriate.

VAT Regulations

VAT is broad based and impacts on almost every business transaction. The law is set out in the VAT Act 1972 (VAT Act), but there is a need for Regulations governing a wide range of VAT matters that are too detailed to be included in the Act itself. Section 32 of the VAT Act permits the Revenue Commissioners to make such Regulations as they deem necessary to control the day-to-day administration of the tax.
Flexibility

Subsection (2) of section 32 of the VAT Act provides that the Revenue Commissioners may make flexible Regulations or different Regulations and procedures for certain classes of persons e.g. issue of invoices by flat-rate farmers.

Occasionally, VAT Policy & Legislation Branch drafts Regulations to implement EU Directives. Sometimes, in order to meet EU deadlines, these Regulations are made under the European Communities Act 1972, rather than the VAT Act. Such Regulations are signed by the Minister. Accordingly the final stages of the legislative process in such cases are carried out by the Department of Finance. Where these Regulations amend the primary law e.g the VAT Act, they must be confirmed in the next Finance Act.

VAT Orders

Section 20 of the VAT Act provides authority for the Minister for Finance to make Statutory Orders to repay VAT in certain cases.

Orders for the purposes of varying Schedules to the VAT Act

Section 11(8) of the VAT Act provides that the Minister for Finance may by Order vary the Second, Third or Sixth Schedules to the Act. However, the Minister may not in an order increase the rate or extend VAT to an item not already chargeable to VAT. Changes of this nature can only be provided for either in a Budget Day Financial Resolution or in the Finance Act. The Minister may amend or revoke such an Order.

Orders for VAT Exemption purposes

The Minister may make an Order declaring a supply of goods or services to be an exempted activity. The Minister may also amend or revoke such an Order.

With regard to Direct Taxes, EU Directives are transposed into our domestic law by inserting sections in the Finance Act.

Drafting of Statutory Instruments

SIs are drafted using the same methods used in creating all other legislation. The form of words and formats will generally be available from existing instruments. Any relevant EU Directives should also be considered.

It will be helpful to note the following points:

- Certain paragraphs will be common to most SIs;
- There will always be an introductory statement that states the authority under which the SI is being made;
- The first numbered paragraph will be the citation and (if different from the date the instrument is to be made) commencement;
- The next paragraph will contain any general definitions required;
- This is followed by a paragraph setting out the principal provisions of the SI;
• Any conditions, restrictions or exceptions should follow on from this;
• In the case of relieving orders, the penultimate (second last) paragraph will specify the manner in which the relief should be claimed;
• If it is necessary to revoke existing instruments, this will be done in the final paragraph.

An SI must be drafted in an equitable manner. The person entitled to relief, for example, should be able to meet with the requirements of the law, having regard to the potential for fraud, without undue difficulty.

Final Version

Other than certain types of SIs identified in the Cabinet Handbook (in particular, SIs to be made by the Government), Revenue are not obliged by law to refer the draft of, a Revenue SI to the OPC for settling. However, the OPC provides advice to RLS on this matter if required and in most cases this is the preferred course of action. In cases involving very urgent matters it is possible to consult with the OPC by phone or go ahead without the advice of that Office.

In the case of drafts to be settled and stamped by the OPC the submission must include a letter to the OPC explaining the purpose of the instrument and indicating any particular difficulties there may be in connection with the draft. A copy of this letter and the draft SI is usually sent to the Department of Finance at this stage as a matter of courtesy.

The OPC will consider the draft and make any changes deemed necessary. Once all matters are agreed a final stamped copy will issue.

Signature of Commissioner

When the final version is agreed the instrument is prepared for signature. The signature procedure varies depending on the type of instrument involved, as indicated in the following paragraphs.

Commissioner’s SIs

In the case of a Commissioner’s Regulation the agreed version and the Explanatory Note is typed and brought to the Commissioner for clearance together with such background or briefing material as is considered necessary. When these have been agreed the Regulation and the Explanatory Note are prepared on vellum paper and are signed and dated by the Commissioner. Drafts of the Commissioner’s ‘approval for issue’ covering the texts of the Notice for Iris Oifigiúil, the Press Advertisement and the Press Release in connection with the Regulation should be prepared for the Commissioner. The Commissioner gives approval for the issuing of the notices mentioned above by signing and dating a copy of each notice and endorsing it ‘Approved for issue’.

Commissioner’s SIs requiring Ministerial consent

In the case of a Commissioner’s Regulation requiring the consent of the Minister the Commissioner does not date the signature. The Commissioner’s signature will be dated later with the date of the Minister’s signature. When sending such an SI to the
Department of Finance for sealing or signature a letter that sets out its purpose and background is prepared. Normally an SI is sealed with the Minister’s seal and the Minister in effect witnesses the seal with his or her signature. It is also possible for the Minister to authenticate only by signature. If a Minister of State (i.e. a junior non-cabinet Minister) has been given the power to make the instrument (which power would be given by Government Order), he or she makes or approves the SI (as the case may be) under his or her signature and not by Ministerial seal. Junior Minister involvement also affects the recital to the SI. Where a Commissioner-made instrument is duly approved by the Minister it is returned to the Revenue Commissioners. This document is the actual legal instrument and should be retained safely at all times.

**Ministerial SIs**

In the case of Ministerial SIs the final version agreed with the OPC is submitted to the Department of Finance with a letter setting out the background etc. RLS involvement ends here and the Department of Finance carries out all further stages of the process.

**Distribution**

When the SI has been signed it is necessary to fax the GSA (Government Supplies Agency) with a copy of the front page of the SI, a copy of the page the Commissioner has signed, and a completed cover sheet (contained at the back of the new electronic SI guidelines) detailing the printers Unique Identifying Number and the text to appear in *Iris Oifigiúil* (please note this is the wording to be sent to the Revenue Press Office for advertising the SI in the national newspapers). The GSA will reply assigning the SI Number and the Oireachtas Presentation Number – this information is to be filled in on the SI. GSA will also contact Cahills Printers with the same information and details of the dates to be filled in to the SI. The new system is defaulted to print 286 copies, however GSA will accept direct instruction for a different print requirement.

**Final Steps to be Taken**

As soon as the complete version of the SI is available 8 copies are sent to the Department of Finance who arrange to have the SI laid before the Dáil (this presentation to the Dáil actually consists of the placing of copies of the SI in the Dáil Library and is normally done within a day of being sent to the Department of Finance). This must be done before any copies of the SI are offered for sale.

The public advertisement notice in standard form to appear in three national newspapers and *Iris Oifigiúil* is sent to the Revenue Press Office. It is important that the SI is available in the GSA Sale Office before this notice is inserted. It will be necessary for the branch responsible for the SI to make its own arrangements for translation into Irish.

In the case of Income Tax Regulations some differences in procedure take place. When the Regulations are made, the first and final pages are faxed to the GSA, with a request for an SI Number, a Presentation Number, the price at which they will be sold and the cost of postage. Following receipt of these details, eight copies are sent to the Department of Finance so that the Minister can be informed of their making and with a request that they be presented to (laid before) the Dáil at the earliest possible date. (This presentation to the Dáil actually consists of the placing of copies of the Regulations in the Dáil Library and is normally done within a day of being sent to the Department of Finance).
Notification of Presentation

When the Department of Finance confirms that presentation has taken place the notices for *Iris Oifigiúil* and for the Government Notices column in the national daily newspapers (*The Irish Times*, *Irish Independent* and *Irish Examiner*) are sent to the Revenue Press Office with a request that they be inserted on a particular date. The Revenue Press Office may issue a press release for publication on the same date. As already indicated, the text of these notices and press release will have been approved by the Commissioner. 150 copies of the Regulations are sent to the GSA Warehouse in good time before the advertising of the Regulations so that they will be in place in the GSA Sale Office on the date they are advertised.

An electronic version of the Regulation is sent to Revenue SPD (Strategic Planning Division) for input on the Revenue website. Copies of the Regulations are posted by RLS to the various bodies that are statutorily entitled to receive them (please see Statutory Instruments Act 1947 (Amended 1955) for list. It is also normal practice to send a courtesy copy to the OPC who will arrange for it to be placed in the Attorney General’s Library.
### Revenue Legislation Services Checklist for processing Statutory Instruments (SI's)

<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
<th>Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Prepare draft SI on a Word document. Submit to the OPC and agree final version for stamping by OPC.</td>
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<tr>
<td></td>
<td>Prepare Explanatory Note</td>
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<td></td>
<td>Logon to the SI Electronic processing website at the secure web address path: <a href="http://www.cahill-printers.ie/cios/SIS/Logon.asp">www.cahill-printers.ie/cios/SIS/Logon.asp</a>&lt;br&gt;Register to use the facility – and follow the new SI system guidelines on usage.</td>
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<tr>
<td></td>
<td>Upload stamped SI text, together with the explanatory note added to the end of that document, onto the Cahills system. Cahills will convert the document into a PDF file, will assign a Unique Identifying Number to the document, and will notify when a copy is ready to proof read.</td>
<td></td>
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<tr>
<td></td>
<td>Print this copy (it will have a watermark on it) and proof read. Fax Cahills with any changes. When satisfied the document is correct click the &quot;REMOVE WATERMARK&quot; tab.</td>
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<td></td>
<td>Cahills will notify by e-mail when final copy is ready on the system with the watermark removed. This is now ready to go to the Commissioner for signing. A briefing note should accompany this.</td>
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<td></td>
<td>Print the SIGNING PAGE ONLY onto Vellum ready for presentation to the Commissioner for signing. Once approved at Assistant Secretary level, contact the Commissioner’s office to arrange signing.</td>
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<td>On return of the signed copy, check that the dates have been filled into the relevant spaces. Fill in any dates that have been omitted.</td>
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<tr>
<td></td>
<td>Fax the Government Supplies Agency (GSA) (Fax No: 6476843) with the following documents:&lt;br&gt;• The page the Commissioner has signed&lt;br&gt;• Copy of the Title Page of the SI,&lt;br&gt;• A completed cover sheet (example at end of the new SI system guide lines) detailing number of pages etc., quoting the Unique Identifying Number, and including the wording for the notice in Iris Oifigiúil</td>
<td></td>
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<tr>
<td></td>
<td>The GSA will do the following:&lt;br&gt;• Fax you the SI Number and the Oireachtas Presentation Number (for front page of SI)&lt;br&gt;• Contact Cahills Printers with the same information, plus the dates to be filled in to the SI and preparations for printing&lt;br&gt;• Arranges publication of notification in Iris Oifigiúil</td>
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<tr>
<td></td>
<td>Please note: once Notice appears in Iris Oifigiúil the GSA authorises Cahills to print the SI.</td>
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</tbody>
</table>
Upon receipt of the SI number from the GSA, fill it in on the SI and also fill in the Oireachtas Presentation Number on the front page.

Send 8 copies of the complete document (including explanatory note and the publishing references on the back page that Cahills add to the draft) to the Estimates Office of the Department of Finance. A covering letter should request that Finance arrange immediate presentation of the SI to the Dail (this is achieved by placing copies of the Regulations in the Dail Library (a procedure known as ‘laying down’)).

Cahills will give formal e-mail notification when the SI is ready to print. Check web copy and note that an option to HOLD FOR PRINTING is available. If this option is not engaged Cahills will begin printing.

The Estimates Office of the Department of Finance will send written confirmation that the SI has been laid down before the Oireachtas. This now means that publishing of the notice in *Iris Oifigiúil* and printing of the S.I. by Cahills can commence.

Send a copy of the notification/advertisement copy (as for *Iris Oifigiúil* above) to the Revenue Press Office, and they will arrange for advertisements to be published in the newspapers.

Send e-copy of the SI to Revenue SPD Communications Branch for publication on the Revenue website.

On receipt of printed copies from GSA send a copy to each of the various bodies statutorily (or otherwise) entitled to receive them as listed in the Statutory Instruments Act 1947, (Amended 1955). Also, send courtesy copy to the OPC.

The branch responsible for the SI must make its own arrangements for translation into Irish.