



Number 24 of 2009

**HEALTH INSURANCE (MISCELLANEOUS PROVISIONS)
ACT 2009**

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Stamp Duties Consolidation Act 1999	1999, No. 31
Succession Duty Act 1853	16 & 17 Vict., c. 51
Taxes Consolidation Act 1997	1997, No. 39



Number 24 of 2009

**HEALTH INSURANCE (MISCELLANEOUS PROVISIONS)
ACT 2009**

AN ACT TO AMEND THE HEALTH INSURANCE ACT 1994, THE TAXES CONSOLIDATION ACT 1997, THE STAMP DUTIES CONSOLIDATION ACT 1999 AND THE INSURANCE ACT 1936, IN PARTICULAR TO ENSURE THAT, IN THE INTERESTS OF SOCIETAL AND INTER-GENERATIONAL SOLIDARITY, THE BURDEN OF THE COSTS OF HEALTH SERVICES BE SHARED BY INSURED PERSONS BY PROVIDING FOR A COST SUBSIDY BETWEEN THE YOUNG AND THE OLD; TO PROVIDE, HAVING REGARD TO THE PRINCIPAL OBJECTIVE OF THE MINISTER FOR HEALTH AND CHILDREN AND THE HEALTH INSURANCE AUTHORITY IN PERFORMING THEIR RESPECTIVE FUNCTIONS UNDER THE HEALTH INSURANCE ACT 1994, FOR TAX CREDITS TO ENABLE THE OLD TO HAVE ACCESS TO HEALTH INSURANCE COVER AND TO PROVIDE FOR A MEANS WHEREBY ANY OVERCOMPENSATION ARISING FROM SUCH TAX CREDITS MAY BE REPAID; AND TO PROVIDE FOR RELATED MATTERS.

[19th July, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Health Insurance (Miscellaneous Provisions) Act 2009.

Short title,
collective citation
and construction.

(2) The Health Insurance Acts 1994 to 2007 and *Part 2* may be cited as the Health Insurance Acts 1994 to 2009 and shall be construed together as one.

(3) The Insurance Acts 1909 to 2000 and *Part 5* may be cited as the Insurance Acts 1909 to 2009.

Definitions. 2.—In this Act—

“Act of 1994” means the Health Insurance Act 1994;

“Act of 1997” means the Taxes Consolidation Act 1997.

PART 2

AMENDMENT OF HEALTH INSURANCE ACT 1994

Principal objective of Minister and Authority in performing respective functions under Act.

3.—The Act of 1994 is amended by inserting the following section after section 1:

“1A.—(1) The principal objective of the Minister and the Authority in performing their respective functions under this Act is to ensure, in the interests of the common good, that access to health insurance cover is available to consumers of health services with no differentiation made between them (whether effected by income tax or stamp duty measures or other measures, or any combination thereof), in particular as regards the costs of health services, based in whole or in part on the respective age range and general health status of the members of any particular generation (or part thereof), and taking into particular account for the purposes of that objective—

- (a) the fact that the health needs of consumers of health services increase as they approach and enter old age,
- (b) the desirability of ensuring, in the interests of societal and intergenerational solidarity, and regardless of the age range or health status of any particular generation (or any part thereof), that the burden of the costs of health services be shared by insured persons by providing for a cost subsidy between the young and the old and, without prejudice to the generality of that objective, in particular that the old have access to health insurance cover by means of a tax credit, and
- (c) the manner in which the health insurance market operates in respect of health insurance contracts, both in relation to individual registered undertakings and across the market.

(2) A registered undertaking shall not engage in a practice, or effect an agreement (including a health insurance contract), which has as its object or effect (whether in whole or in part) the avoidance of the achievement of the principal objective specified in subsection (1).

(3) Nothing in this section shall affect the operation of section 7(5) or 7A.”.

Amendment of section 2 of Act of 1994.

4.—Section 2 of the Act of 1994 is amended, in subsection (1)—

- (a) by substituting the following definitions for the definition of “community rating”:

“ ‘community rated health insurance contract’ means a health insurance contract which complies with section 7(1) or which would comply with that section but for its falling within section 7(5) or 7A;

‘community rating’ means measures which, whether in whole or in part, apply towards the achievement of the principal objective specified in section 1A(1);”

- (b) by inserting the following definition after the definition of “day patient service”:

“ ‘effect’, in relation to a health insurance contract or other agreement, means to enter into or renew such contract or agreement, as the case may be;”.

- (c) by inserting the following definition after the definition of “in-patient indemnity payment”:

“ ‘net premium’, in relation to a health insurance contract, means the premium payable under the contract in respect of an individual in any year of assessment after—

- (a) the deduction made therefrom to which the individual is entitled, for that year of assessment, by virtue of section 470 of the Taxes Consolidation Act 1997, and

- (b) the deduction (if any) made therefrom to which the individual is entitled, for that year of assessment, by virtue of section 470B of the Taxes Consolidation Act 1997;”

- (d) in the definition of “undertaking”, by substituting “undertaking;” for “undertaking.”, and

- (e) by inserting the following definition after the definition of “undertaking”:

“ ‘year of assessment’ has the same meaning as in section 2 of the Taxes Consolidation Act 1997.”.

5.—Section 3 of the Act of 1994 is amended, in subsection (4)(a), by substituting 6A(2), 7A, 7B, 7F” for “7A, 7B”. Amendment of section 3 of Act of 1994.

6.—The Act of 1994 is amended by substituting the following sections for section 7: Substitution of section 7 of Act of 1994.

“Interpretation of Part II. 6A.—(1) In this Part, unless the context otherwise requires—

‘age group’ means age group as prescribed in regulations made under section 7D;

‘age-related tax credit’ has the same meaning as in section 470B(4) of the Taxes Consolidation Act 1997;

‘cumulative net financial impact’, in relation to a registered undertaking or former registered undertaking which has furnished one or more information returns to the Authority in respect of a period, means the difference between—

- (a) the total amount of the age-related tax credits recorded in accounts for that undertaking in respect of that period as extracted from accounts furnished pursuant to section 7F(1)(a) and (b) to the Authority by the undertaking in respect of that period, and
- (b) the total amount of the stamp duty referred to in section 125A of the Stamp Duties Consolidation Act 1999 recorded in accounts for that undertaking in respect of that period as extracted from accounts furnished pursuant to section 7F(1)(a) and (b) to the Authority by the undertaking in respect of that period;

‘draft report’ has the meaning assigned to it by section 7F(7);

‘information return’ means an information return referred to in section 7D(1);

‘positive’, in relation to the cumulative net financial impact on a registered undertaking or former registered undertaking which has submitted one or more information returns to the Authority in respect of a period, means that, for that period and that undertaking, the amount specified in paragraph (a) of the definition of ‘cumulative net financial impact’ exceeds the amount specified in paragraph (b) of that definition;

‘relevant financial provisions’ means—

- (a) section 470B of the Taxes Consolidation Act 1997, or
- (b) section 125A of the Stamp Duties Consolidation Act 1999,

or both;

‘relevant market sector’, in relation to information returns made to the Authority for any period of 6 months referred to in section 7D(1), means all the registered undertakings or former registered undertakings which have made those returns;

‘relevant period’ has the meaning assigned to it by section 7D(1)(b).

(2) Reasonable profit shall be determined under section 7F(4) in accordance with—

- (a) Article 18 of the Community framework for State aid in the form of public service compensation (2005/C297/04)¹ (the text of which is set out for convenience of reference in Schedule 2), and
- (b) any factors that are prescribed as factors that may be taken into account for the purposes of so determining reasonable profit in accordance with the said Article.

Prohibition of non-community rated health insurance contracts.

7.—(1) Subject to subsection (5) and section 7A—

- (a) a registered undertaking shall not make an offer to effect a health insurance contract of a particular type—
 - (i) unless the offer is maintained—
 - (I) for a period of not less than 31 consecutive days commencing on the day on which the offer is first made, and
 - (II) throughout that period on the same terms and conditions on which the offer is first made,
 - and
 - (ii) unless the offer is to effect that contract for a period of 12 consecutive months except that the offer may be to effect the contract for a shorter or longer period if, and only if—
 - (I) in all the circumstances of the case, there is good and sufficient reason for doing so, and
 - (II) the entering into of the contract by the undertaking does not in any way prejudice the achievement of the principal objective specified in section 1A(1),

and

- (b) the net premium payable for each insured person under any health insurance contract effected by a particular registered undertaking shall be the same as that payable under every

¹ OJC 297, 29.11.2005, p.4

other such contract (after due allowance has been made in respect of the payment of any net premium by instalments) that—

- (i) is effected by that undertaking,
- (ii) is in respect of the same period as that to which the first-mentioned contract relates,
- (iii) relates to the same health services as those to which the first-mentioned contract relates, and
- (iv) provides for the same payments by the undertaking in respect of those services as those provided for by the first-mentioned contract.

(2) A registered undertaking shall not contravene subsection (1).

(3) Without prejudice to the generality of subsection (1), net premiums payable under health insurance contracts shall not be varied by reference to—

- (a) the age, sex or sexual orientation or the suffering or prospective suffering of a person from a chronic disease, illness or other medical condition or from a disease, illness or medical condition of a particular kind,
- (b) the frequency of the provision of health services to a person, or
- (c) the amounts of payments or the number of different payments to which a person becomes entitled under such a contract.

(4) Subject to subsection (6), the amounts of the payments provided by a health insurance contract in respect of the health services to which it relates shall not be varied by reference to the age, sex or sexual orientation of the person to whom those services are provided.

(5) Notwithstanding subsections (1) to (3), a net premium payable under a health insurance contract effected by a registered undertaking—

- (a) shall, in so far as it relates to a person under the age of 18 years, be—
 - (i) waived, or
 - (ii) reduced, such a net premium being not more than 50 per cent of the

net premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking,

and

(b) may be reduced in so far as it relates—

- (i) to a person who is of or over the age of 18 years and under the age of 23 years, is receiving fulltime education and is dependent on the person with whom the contract is effected, such a net premium being not more than 50 per cent of the net premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking,
- (ii) to a person who is a member of a restricted membership undertaking and is in receipt of a pension recognised for the purposes of the undertaking, or
- (iii) to a person who is a member, for the purposes of health insurance, of a group of persons, such a net premium being, if it is reduced, not less than 90 per cent of the net premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking.

(6) Where any person named in a health insurance contract effected by a registered undertaking—

- (a) is the spouse, a child or a dependent of a party to the contract, or
- (b) is the spouse, a child or a dependent of another person named in the contract,

then the undertaking may aggregate or combine, as it thinks fit, claims in respect of health services, other than in-patient services, for the purposes of calculating payments, other than in-patient indemnity payments, to be made by it pursuant to the contract.”.

7.—Section 7A of the Act of 1994 is amended—

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

Amendment of section 7A of Act of 1994.

“(1) In this section, ‘insured person’ means any person, other than the registered undertaking, who—

(a) is party to or named in the health insurance contract concerned (other than a health insurance contract of a type referred to in section 10(3)), and

(b) is of or over the age of 30 years.”,

(b) by substituting the following subsections for subsection (2):

“(2) Notwithstanding section 7 but subject to subsection (2A), a registered undertaking may require, on account of any of the circumstances referred to in paragraph (a), (b), (c), (cc) or (d) of subsection (4), the payment under a health insurance contract of a net premium the amount of which is greater than that of the net premium (in this section referred to as the ‘unadjusted net premium’) which could have been required to be paid if this section had not been enacted.

(2A) A registered undertaking shall ensure that any requirement it has made under subsection (2) is not withdrawn and otherwise continues to have effect.”,

(c) in subsection (4)—

(i) in paragraph (c), by substituting “13 weeks” for “12 months”, and

(ii) by inserting the following paragraph after paragraph (c):

“(cc) in the period of the 13 weeks preceding the date on which the registered undertaking concerned was requested to effect the health insurance contract, a health insurance contract was in force in respect of which the insured person was a party to or named in the contract and in respect of whom any registered undertaking providing that contract could have required the payment of a net premium that was greater than the unadjusted premium,”,

(d) in subsection (5)—

(i) by substituting “net premium” for “premium”, and

(ii) by substituting “unadjusted net premium” for “unadjusted premium”,

(e) in subsection (6), in paragraph (b), by substituting “unadjusted net premium” for “unadjusted premium”, and

(f) in subsection (7), in paragraph (a), by substituting “unadjusted net premium” for “unadjusted premium”.

8.—The Act of 1994 is amended by inserting the following sections after section 7A: Amendment of Act of 1994.

“Submission of new type of health insurance contract and furnishing of certain other types of health insurance contract to Authority.

7AB.—(1) Where a registered undertaking proposes, on or after the commencement of *section 8* of the *Health Insurance (Miscellaneous Provisions) Act 2009*, to offer in the State a new type of health insurance contract (and regardless of whether the contract is already offered outside the State by the undertaking or any other person), it shall, not later than 10 working days before first making any such offer, submit a sample of the contract to the Authority.

(2) A registered undertaking shall, not later than 3 months after the commencement of *section 8* of the *Health Insurance (Miscellaneous Provisions) Act 2009*, furnish to the Authority a sample of every type of health insurance contract that either—

(a) is on offer by it in the State on that commencement, or

(b) is no longer on offer by it in the State but in respect of which one or more than one health insurance contract of such type—

(i) has been effected by it before that commencement, and

(ii) is in force on that commencement.

(3) The reference in subsection (1) to a new type of health insurance contract includes a health insurance contract which has been altered in any material particular subsequent to the submission of a sample of the contract to the Authority pursuant to that subsection.

Register of Health Insurance Contracts.

7AC.—(1) The Authority shall, as soon as may be after the commencement of *section 8* of the *Health Insurance (Miscellaneous Provisions) Act 2009*, establish and maintain a register to be known as The Register of Health Insurance Contracts.

(2) The Register of Health Insurance Contracts shall be in such form and shall contain such particulars relating to any type of health insurance contract on offer in the State on or after the establishment of the Register as may be specified by the Authority.

(3) The Authority shall ensure that the contents of The Register of Health Insurance Contracts are available for inspection by members of the public free of charge at the office of the Authority during normal working hours.

(4) The Authority may make the contents of The Register of Health Insurance Contracts available for inspection by members of the public free of charge on the Authority's website.”.

Further amendment of Act of 1994.

9.—The Act of 1994 is amended by inserting the following sections after section 7B:

“Registered insurers shall make all reasonable efforts to obtain certain information in respect of insured persons, etc.

7C.—(1) A registered undertaking shall, in respect of each health insurance contract that provides for the making of in-patient indemnity payments and that is effected by it on or after 1 January 2009, make all reasonable efforts to obtain the relevant information in respect of each insured person.

(2) A registered undertaking may, for the purposes of obtaining, in respect of a health insurance contract referred to in subsection (1), the relevant information in respect of each insured person, request in writing the policy holder to furnish the undertaking with the relevant information in respect of each insured person not later than 30 days from the date of receipt of the request.

(3) A request under subsection (2) shall be accompanied by a copy of this section.

(4) The policy holder, the subject of a request under subsection (2), shall comply with that request.

(5) A registered undertaking which has obtained relevant information for the purposes of subsection (1) shall not make use of, or disclose, the relevant information except—

(a) for the purposes of making a claim referred to in section 470(3)(b)(ii) or 470B(6)(b)(ii) of the Taxes Consolidation Act 1997, or

(b) for the purposes of complying with section 125A of the Stamp Duties Consolidation Act 1999.

(6) In this section, ‘relevant information’, in relation to an insured person, means—

(a) the name of the person,

(b) the sex of the person,

(c) the date of birth of the person, and

(d) the Personal Public Service Number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) of the person.

Obligation to make information returns to Authority.

7D.—(1) A registered undertaking or former registered undertaking to which this subsection applies by virtue of subsection (4) shall, not later than 30 days (or such longer period as the Authority may permit in its discretion) after the expiration of each period of 6 months, the first such 6 months period commencing on 1 January 2009, make an information return to the Authority—

- (a) in such form as may be prescribed, and
- (b) subject to subsections (2) and (5), containing such information concerning the undertaking's health insurance business or former health insurance business, as the case may be, during the period of 6 months concerned (in this Part referred to as the 'relevant period') as may be prescribed.

(2) Subject to subsection (5), the information referred to in subsection (1) which may be prescribed includes—

- (a) the total number of persons insured, or a class thereof, with the registered undertaking or former registered undertaking concerned during the relevant period,
- (b) the total number of persons insured, or a class thereof, in each age group and the gender profile of each age group in respect of the relevant period,
- (c) the total number of persons in each age group, or a class thereof, effecting health insurance contracts during the relevant period,
- (d) the in-patient indemnity payments, or a class thereof, made by the registered undertaking or former registered undertaking concerned during the relevant period,
- (e) information relating to the health insurance services provided during the relevant period, and
- (f) such other information relating to the relevant period, other than personal data, which may reasonably be considered to be information which will enable or assist the Minister or the Authority to perform their respective functions under this Act.

(3) The information concerning a registered undertaking's or former registered undertaking's health insurance business or former health

insurance business, as the case may be, to be contained in an information return may include information that came into existence before the enactment of this section.

(4) Subsection (1) applies to each undertaking that was a registered undertaking, but not a restricted membership undertaking, for all, or any part of, the period of 6 months concerned.

(5) The references in subsection (1) to health insurance business and former health insurance business shall not include so much of any such business which is comprised of health insurance contracts to which the relevant financial provisions do not apply, and the references to information in that subsection and subsection (2) shall be construed accordingly.

Evaluation and analysis of information returns, etc.

7E.—(1) The Authority shall, for the purposes of enabling the Minister to perform his or her functions under this Act or of enabling or assisting it to perform its functions under this Act—

- (a) evaluate and analyse all information returns made to it and, without limiting the generality of the foregoing, having particular regard to—
 - (i) the average insurance claim payment per insured person made by the relevant market sector during the relevant periods for each age group to which the returns relate in respect of the total number of persons insured in that age group, or a class thereof, during the relevant periods,
 - (ii) the average insurance claim payment per insured person made by the relevant market sector during the relevant periods in respect of the total number of persons insured, or a class thereof, during the relevant periods,
 - (iii) the age groups for which the average insurance claim payment referred to in subparagraph (i) is in excess of the average insurance claim payment referred to in subparagraph (ii) in respect of the same relevant periods,
 - (iv) in the case of age groups which fall within subparagraph (iii), the extent of the excess referred to in that subparagraph attributable to each such age group, and

- (v) the net financial impact on each registered undertaking or former registered undertaking of the relevant financial provisions during the relevant periods,

and

- (b) as soon as may be after the end of each 6 months period, 12 months period, or longer period, as specified by the Minister by notice in writing given to the Authority (in this paragraph referred to as the 'specified period'), prepare and furnish to the Minister a report in relation to—

- (i) such evaluation and analysis in respect of the information returns which relate to the specified period,

- (ii) such matters concerning the carrying on of health insurance business and developments in relation to health insurance generally that the Authority considers ought to be brought to the attention of the Minister (including information in relation to the profitability of any registered undertaking or former registered undertaking where the operation of the relevant financial provisions is expected to result in a positive cumulative net financial impact on the undertaking),

- (iii) the amounts of the age-related tax credits that the Authority considers, after having regard to such evaluation and analysis, would need to be afforded, under section 470B(4) of the Taxes Consolidation Act 1997, to persons insured by registered undertakings (other than restricted membership undertakings) having regard to the principal objective specified in section 1A(1) (in so far as that objective relates to health insurance contracts that provide for in-patient indemnity payments) and to achieving the aim of avoiding overcompensation being made to a registered undertaking or former registered undertaking under the operation of the relevant financial provisions, and

- (iv) if the amounts referred to in subparagraph (iii) were given effect by a statutory provision, the amount

of the stamp duty that the Authority considers would need to be paid, pursuant to section 125A of the Stamp Duties Consolidation Act 1999, by registered undertakings (other than restricted membership undertakings) in respect of the persons insured by them in order to meet the cost to the Exchequer of the total of the amounts referred to in subparagraph (iii).

(2) The Minister shall, after having regard to—

- (a) the principal objective specified in section 1A(1),
- (b) the need to facilitate competition between registered undertakings, and
- (c) any report furnished to him or her pursuant to subsection (1)(b),

make recommendations to the Minister for Finance relating to section 470B of the Taxes Consolidation Act 1997 or section 125A of the Stamp Duties Consolidation Act 1999.

(3) The Minister may engage a person whom he or she considers to be competent and qualified to do so to advise him or her and to consult with him or her in relation to the functions of the Minister under this section.

Overcompensated undertaking required to make payment to Exchequer if it has made more than reasonable profit.

7F.—(1) A registered undertaking or former registered undertaking shall, in respect of each year—

- (a) maintain and furnish to the Authority (before 1 April of the next succeeding year), in such form as may be specified by the Authority, a statement of profit and loss in respect of—
 - (i) its health insurance business in the State which falls within paragraph (b) of section 7D(1), and
 - (ii) such other health insurance services, provided by the undertaking, as may be prescribed,
- (b) maintain and furnish to the Authority (before 1 April of the next succeeding year), in such form as may be specified by the Authority, a balance sheet in respect of—
 - (i) its health insurance business in the State which falls within paragraph (b) of section 7D(1), and

(ii) such other health insurance services, provided by the undertaking, as may be prescribed,

and

(c) furnish to the Authority (before 1 April of the next succeeding year), such other information relating to the year as may be prescribed and, without limiting the generality of the foregoing, such information may include a statement of profit and loss and a balance sheet in respect of its health insurance business as it relates to those persons receiving age-related tax credits.

(2) (a) A statement of profit and loss or balance sheet shall, prior to its being furnished to the Authority pursuant to subsection (1), be certified by an independent accountant in such form as may be specified by the Authority.

(b) The Minister may prescribe the bases for the calculation of costs, premia and other relevant financial data that are to be included in a statement of profit and loss or balance sheet to be furnished to the Authority pursuant to subsection (1).

(3) A registered undertaking or former registered undertaking which has furnished the Authority with information under subsection (1) shall provide the Authority with such assistance as is reasonably necessary for the due performance of the Authority's functions under this section in relation to such information.

(4) The Authority shall, as soon as may be after the expiration of each year commencing from and including 2009, determine what would constitute a reasonable profit for a registered undertaking in respect of its health insurance business in respect of the period from 1 January 2009 to the end of the year concerned.

(5) The Authority shall—

(a) evaluate and analyse the information furnished to it under subsection (1) by a registered undertaking or former registered undertaking, and

(b) as soon as may be, make a determination as to whether or not the cumulative net financial impact of the relevant financial provisions on a registered undertaking or former registered undertaking is positive for the period from 1 January 2009 to the end

of the year to which the information relates and, if so, the amount by which the cumulative net financial impact is positive.

(6) (a) Where the Authority determines under subsection (5)(b) that there is a positive cumulative net financial impact on a registered undertaking or former registered undertaking in respect of a period, it shall make a determination as to whether the undertaking has or has not, in respect of that period, made a profit which is in excess of the reasonable profit determined under subsection (4) in respect of that period.

(b) Where the Authority determines under paragraph (a) that a registered undertaking or former registered undertaking has made a profit which is in excess of a reasonable profit in respect of a period, it shall make a further determination as to the monetary equivalent amount of the profit which is in excess of the corresponding monetary equivalent amount of such reasonable profit in respect of that period.

(7) Where, in respect of a period, the Authority has determined under subsection (5)(b) that the cumulative net financial impact of the relevant financial provisions on a registered undertaking or former registered undertaking was positive, and determined under subsection (6)(a) that the undertaking has made a profit which is in excess of the reasonable profit determined under subsection (4), it shall prepare a report (in this Part referred to as the 'draft report') setting out—

- (a) the reasonable profit determined under subsection (4),
- (b) the amount determined under subsection (5)(b) to be the positive cumulative net financial impact on the undertaking,
- (c) the monetary equivalent amount determined under subsection (6)(b) to be the profit of the undertaking which is in excess of the corresponding monetary equivalent amount of such reasonable profit,
- (d) the cumulative amount of overcompensation, being the lower of the amounts referred to in paragraphs (b) and (c),

- (e) the amount of overcompensation to be paid to the Exchequer by the undertaking, being the cumulative amount of overcompensation referred to in paragraph (d) reduced by the total amount of overcompensation paid or due to be paid to the Exchequer pursuant to the operation of subsection (10) in respect of all the periods prior to the first-mentioned period, and
 - (f) the bases on which it made the determinations, and calculated the amounts, referred to in paragraphs (a) to (e).
- (8) (a) The Authority shall, as soon as may be after the preparation of the draft report—
- (i) furnish a copy of the draft report to the registered undertaking or former registered undertaking the subject of the report,
 - (ii) invite the undertaking to make representations to the Authority in relation to the draft report before the expiration of 21 days (or such longer period as the Authority may permit in its discretion) from the day on which the undertaking received the report, and
 - (iii) take into account any such representations made to it within that period before preparing the final report as soon as is practicable after the expiration of that period of 21 days (or, if applicable, the expiration of the longer period permitted pursuant to subparagraph (ii)).
- (b) The determinations of the Authority contained in its final report shall be final and conclusive (including for the purposes of any proceedings concerning the recovery of an amount referred to in subsection (11)).
- (c) The Authority shall furnish the final report to the Minister as soon as may be after it has been prepared.
- (9) Where the Minister is furnished with a report under subsection (8), the Minister shall, as soon as may be, furnish a copy of the report to the registered undertaking or former registered undertaking the subject of the report together with a copy of this section.

(10) Where a registered undertaking or former registered undertaking is furnished with a copy of a report under subsection (9), it shall, not later than 2 months from the date on which it is given the report, pay to the Exchequer the amount set out in the report pursuant to paragraph (e) of subsection (7).

(11) The Minister on behalf of the Minister for Finance may recover, as a simple contract debt in any court of competent jurisdiction, from the registered undertaking or former registered undertaking by which it is payable, any amount due and owing to the Exchequer pursuant to the operation of subsection (10).

(12) Notwithstanding that the Authority may not, in respect of a particular year, or in respect of a particular registered undertaking or former registered undertaking, be required under subsection (8) to furnish a report to the Minister, the Minister may make a request in writing to the Authority to be furnished, within the period specified in the request (being a period reasonable in the circumstances), with such information relating to any determination it has made under subsection (5) or (6) in respect of a particular registered undertaking or former registered undertaking (including information relating to the basis on which such determination was made) as the Minister specifies in the request.

(13) The Authority shall comply with a request made under subsection (12) by the Minister.

Disclosure of contents of information returns.

7G.—(1) The contents of information returns shall, in so far as they can be related to individual registered undertakings or former registered undertakings, be disclosed only where necessary for the purposes of the functions of the Minister or the Authority under this Act.

(2) Subject to subsection (1), the Authority may, where it considers it appropriate to do so, disclose aggregate data derived from information returns.

(3) Nothing in this section shall preclude the disclosure of information by means of a report furnished to the Minister pursuant to section 7E(1)(b) or 7F(8)(c).

Registered undertaking to provide certain premium information to policy holders or certain other persons.

7H.—Where a registered undertaking effects a health insurance contract on or after the commencement of *section 9* of the *Health Insurance (Miscellaneous Provisions) Act 2009* (including any renewal of such a contract entered into before that commencement), it shall, at the same time as effecting the contract, or as soon as is practicable thereafter, give—

(a) the policy holder, or

- (b) the person to whom the registered undertaking issues the request for payment of the premium due under the health insurance contract, where that person is not the policy holder,

a statement in writing setting out—

- (i) the premium payable under the contract in respect of each insured person before any deduction referred to in the definition of ‘net premium’ in section 2 is made from the premium, and
- (ii) the net premium under the contract in respect of each insured person.”.

10.—Section 12A is amended by inserting the following subsection after subsection (4):

Amendment of section 12A of Act of 1994.

“(5) Notwithstanding the generality of subsection (1), any information derived from the contents of returns and which has been disclosed by the Minister to the Minister for Finance is, and shall be deemed always to have been, necessarily so disclosed for the purposes of enabling or assisting—

- (a) the determination of the age-related tax credit referred to in section 470B of the Taxes Consolidation Act 1997, or
- (b) the determination of the amount of levy referred to in section 125A of the Stamp Duties Consolidation Act 1999.”.

11.—The Act of 1994 is amended by substituting the following section for section 13:

Regulations may specify information to be provided to policy holders and potential policy holders of type of health insurance contract, etc.

“13.—(1) Subject to subsection (3), if the Minister considers, after having consulted with the Authority, that it is in the interests of policy holders or potential policy holders of a type of health insurance contract that certain information should accompany the contract, the Minister may make regulations—

- (a) specifying the type of contract and the information,
- (b) requiring registered undertakings which supply the contract to ensure that the information accompanies the contract in the manner and form specified in the regulations,
- (c) regulating or prohibiting the supply by registered undertakings of the contract if any regulation made under paragraph (b) is not complied with in so far as the regulation applies to the contract, and
- (d) without prejudice to the generality of paragraph (a), requiring registered undertakings to include a statement in their offers to renew health insurance contracts, or a class of such offers, as to the rights (including open enrolment rights), or a class of such

rights, of the policy holders concerned in respect of the contracts.

(2) Subject to subsection (3), if the Minister considers, after having consulted with the Authority, that it is in the interests of policy holders or potential policy holders of a type of health insurance contract that certain information should accompany advertisements which relate (whether in whole or in part) to the contract, the Minister may make regulations—

- (a) specifying the type of contract and the information, and
- (b) requiring registered undertakings, the advertising of which relates (whether in whole or in part) to the contract, to ensure that the information accompanies the advertisements in the manner and form specified in the regulations.

(3) The Minister shall not make a regulation under this section unless the Minister is of the opinion that—

- (a) the typical policy holder or potential policy holder of the type of health insurance contract concerned would need the information concerned in order to make an informed contract decision, and
- (b) if such information was withheld, omitted or concealed, it would be likely to cause the typical policy holder or potential policy holder of such a contract to make a contract decision that the policy holder or potential policy holder, as the case may be, would not otherwise make.

(4) Nothing in this section shall be construed to preclude a regulation being made under this section which applies to all types of health insurance contract.

(5) Regulations made under subsection (2) may be expressed to apply to a type of advertisement specified in the regulations.

(6) In this section—

‘accompanied’—

- (a) in relation to information to accompany a health insurance contract—
 - (i) includes accompanied by way of being incorporated into or stamped on the contract, and
 - (ii) in the case of an offer to renew the contract, includes accompanied by way of being incorporated into or stamped on the offer to renew the contract made prior to the issue of the contract where such offer is accepted,

and

- (b) in relation to information to accompany an advertisement which relates (whether in whole or in part) to

a health insurance contract, includes accompanied by way of—

- (i) being incorporated into the advertisement, or
- (ii) there being a reference in the advertisement to the means by which the information may be readily obtained;

‘advertisement’ includes any form of advertising or marketing;

‘contract decision’, in relation to a type of health insurance contract, means—

- (a) a decision on whether or not to enter into a contract of health insurance of that type, or
- (b) if a contract of health insurance of that type has already been entered into, a decision on whether or not to—
 - (i) cancel the contract,
 - (ii) renew the contract, or
 - (iii) exercise a contractual right under the contract;

‘supply’, in relation to a health insurance contract, includes furnish, offer or agree to supply and expose or display for supply.”.

12.—Section 14 of the Act of 1994 is amended—

Amendment of section 14 of Act of 1994.

- (a) in subsection (5), by substituting “Subject to subsection (5A), the Minister” for “The Minister”, and
- (b) by inserting the following subsection after subsection (5):

“(5A) The Minister shall not, on or after the commencement of *section 12* of the *Health Insurance (Miscellaneous Provisions) Act 2009*, provide by regulations for the registration of any restricted membership undertaking which was not registered before that commencement.”.

13.—Section 17 of the Act of 1994 is amended by substituting the following for subsection (1):

Amendment of section 17 of Act of 1994.

“(1) In this section, ‘assessable amount’, in relation to a quarter, means the gross amount received by a registered undertaking by way of premiums in that quarter in respect of the health insurance business of the undertaking in the State on or after the establishment day, but excluding any amount—

- (a) so received in the course of or by way of reinsurance, or
- (b) so paid in respect of a stamp duty under section 125A of the Stamp Duties Consolidation Act 1999.”.

Enforcement notices.

14.—The Act of 1994 is amended by inserting the following Part after Part III:

“PART IIIA

ENFORCEMENT NOTICES

Interpretation of Part IIIA.

18A.—In this Part—

‘enforcement notice’ means a notice under section 18B(1);

‘relevant provision’ means—

- (a) a provision of this Act, or
- (b) a provision of a regulation under this Act.

Issue of enforcement notices.

18B.—(1) Without prejudice to the generality of sections 4 and 15, where the Authority is of the opinion that a person—

- (a) is contravening a relevant provision, or
- (b) has contravened a relevant provision in circumstances that make it likely that the contravention will continue or be repeated,

then the Authority may serve on the person a notice in writing, accompanied by a copy of this Part—

- (i) stating that it is of that opinion,
- (ii) specifying the relevant provision as to which it is of that opinion and the reasons why it is of that opinion,
- (iii) directing the person to take such steps as are specified in the notice to remedy the contravention or, as the case may be, the matters occasioning it, and
- (iv) specifying a period (ending not earlier than the period specified in section 18C(1) within which an application under that section against any direction specified in the notice may be made) within which those steps must be taken, being a period reasonable in the circumstances.

(2) The steps specified in an enforcement notice to remedy any contravention or matter to which the notice relates may be framed so as to afford the person on whom it is served a choice between different ways of remedying the contravention or matter, as the case may be.

(3) Where a person on whom an enforcement notice has been served makes an application under section 18C(1) against any direction specified in the notice, the steps specified in the notice need not be taken by the person pending the determination, withdrawal or abandonment of the application.

(4) The Authority may cancel an enforcement notice by notice in writing served on the person concerned.

(5) Where a person fails to take the steps specified in an enforcement notice served on the person, the Authority may, on notice to that person, apply in a summary manner to the High Court for an order requiring the person to take those steps (or to take such varied or other steps for the like purpose as may be specified in the order), and the Court—

(a) may—

- (i) make the order sought,
- (ii) make the order sought subject to such variations to those steps as may be specified in the order, or
- (iii) make the order sought subject to such other steps for the like purpose as may be specified in the order,

or

(b) may dismiss the application,

and, whether paragraph (a) or (b) is applicable, may make such order as to costs as it thinks fit in respect of the application.

Application for cancellation of direction specified in enforcement notice.

18C.—(1) A person on whom an enforcement notice has been served may, on notice to the Authority, not later than 45 days after being so served, apply to the High Court for the cancellation of any direction specified in the notice and, on such an application, the Court may—

- (a) cancel the direction,
- (b) confirm the direction, or
- (c) vary the direction,

and, whether paragraph (a), (b) or (c) is applicable, make such order as to costs as it thinks fit in respect of the application.

(2) The decision of the High Court under this section on a direction specified in an enforcement notice shall be final save that, by leave of that

Court or of the Supreme Court, an appeal by the Authority or the person concerned, as the case may be, from the decision shall lie to the Supreme Court on a question of law.

Rules of Court.

18D.—Rules of Court may make provision for the expedition of the hearing of proceedings under this Part.”.

Amendment of section 20 of Act of 1994.

15.—Section 20(2) of the Act of 1994 is amended by deleting “the Schedule” and substituting “Schedule 1”.

Amendment of section 21 of Act of 1994.

16.—Section 21 of the Act of 1994 is amended by substituting the following subsection for subsection (1):

“(1) In addition to the functions conferred on the Authority by sections 7AC, 7D, 7E, 7F, 7G, 12, 14, 15, 17 and 18 and Part IIIA, the principal functions of the Authority shall be—

- (a) to manage and administer any schemes prescribed under section 12, and to establish and maintain the fund referred to in that section,
- (b) to maintain The Register of Health Benefits Undertaking and The Register of Health Insurance Contracts,
- (c) to evaluate and analyse information and other returns made to it,
- (d) to take such action as it considers appropriate to increase the awareness of members of the public of their rights as consumers of health insurance and of the health insurance services available to them,
- (e) to advise the Minister either at his or her request or on its own initiative on matters relating to the functions of the Minister under this Act, the functions of the Authority under this Act and health insurance generally,
- (f) without prejudice to the generality of paragraph (e), to advise the Minister either at his or her request or on its own initiative as to whether, in the opinion of the Authority, the principal objective specified in section 1A(1) is being achieved to the appropriate extent, and
- (g) to monitor the operation of this Act and the carrying on of health insurance business and developments in relation to health insurance generally.”.

Amendment of Schedule to Act of 1994.

17.—The Schedule to the Act of 1994 is amended by deleting “SCHEDULE” and substituting “SCHEDULE 1”.

18.—The Act of 1994 is amended by inserting the following new Schedule after the Schedule:

Insertion of Schedule 2 into Act of 1994.

“Section 6A(2).

SCHEDULE 2

COMMUNITY FRAMEWORK FOR STATE AID IN THE FORM OF PUBLIC SERVICE COMPENSATION

(2005/C 297/04)

1. PURPOSE AND SCOPE

1. It is apparent from the case-law of the Court of Justice of the European Communities (*I*), that public service compensation does not constitute State aid within the meaning of Article 87(1) of the EC Treaty if it fulfils certain conditions. However, if public service compensation does not meet these conditions and if the general criteria for the applicability of Article 87(1) are satisfied, such compensation constitutes State aid.

2. Commission Decision 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2) lays down the conditions under which certain types of public service compensation constitute State aid compatible with Article 86(2) of the EC Treaty and exempts compensation satisfying those conditions from the prior notification requirement. Public service compensation which constitutes State aid and does not fall within the scope of Decision 2005/842/EC *on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest* will still be subject to the prior notification requirement. The purpose of this framework is to spell out the conditions under which such State aid can be found compatible with the common market pursuant to Article 86(2).

3. This framework is applicable to public service compensation granted to undertakings in connexion with activities subject to the rules of the EC Treaty, with the exception of the transport sector, and the public service broadcasting sector covered by the Communication from the Commission on the application of State aid rules to public service broadcasting (3).

4. The provisions of this framework apply without prejudice to the stricter specific provisions relating to public service obligations contained in sectoral Community legislation and measures.

5. This framework applies without prejudice to the Community provisions in force in the field of public procurement and competition (in particular Articles 81 and 82 of the EC Treaty).

(1) Judgments in Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH* ('Altmark') [2003] ECR I-7747 and Joined Cases C-34/01 to C-38/01 *Enirisorse SpA v Ministero delle Finanze* [2003] ECR I-14243.

(2) OJ L 312, 29.11.2005, p. 67.

(3) OJ C 320, 15.11.2001, p. 5.

2. CONDITIONS GOVERNING THE COMPATIBILITY OF PUBLIC SERVICE COMPENSATION THAT CONSTITUTES STATE AID

2.1. General provisions

6. In its judgment in *Altmark*, the Court laid down the conditions under which public service compensation does not constitute State aid as follows:

'[...] First, the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined. [...].

[...] Second, the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner, to avoid it conferring an economic advantage which may favour the recipient undertaking over competing undertakings. [...] Payment by a Member State of compensation for the loss incurred by an undertaking without the parameters of such compensation having been established beforehand, where it turns out after the event that the operation of certain services in connection with the discharge of public service obligations was not economically viable, therefore constitutes a financial measure which falls within the concept of State aid within the meaning of Article 87(1) of the Treaty.

[...] Third, the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit [...].

[...] Fourth, where the undertaking which is to discharge public service obligations, in a specific case, is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical

undertaking, well run and adequately provided with means of transport so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations.’

7. Where these four criteria are met, public service compensation does not constitute State aid, and Articles 87 and 88 of the EC Treaty do not apply. If the Member States do not respect these criteria and if the general criteria for the applicability of Article 87(1) of the EC Treaty are met, public service compensation constitutes State aid.

8. The Commission considers that at the current stage of development of the common market, such State aid may be declared compatible with the Treaty under Article 86(2) of the EC Treaty if it is necessary to the operation of the services of general economic interest and does not affect the development of trade to such an extent as would be contrary to the interests of the Community. The following conditions should be met in order to achieve such balance.

2.2. Genuine service of general economic interest within the meaning of Article 86 of the EC Treaty

9. It is apparent from the case-law of the Court of Justice that with the exception of the sectors in which there are Community rules governing the matter, Member States have a wide margin of discretion regarding the nature of services that could be classified as being services of general economic interest. Thus, the Commission’s task is to ensure that this margin of discretion is applied without manifest error as regards the definition of services of general economic interest.

10. It transpires from Article 86(2) that undertakings (1) entrusted with the operation of services of general economic interest are undertakings entrusted with ‘a particular task’. When defining public service obligations and in assessing whether those obligations are met by the undertakings concerned, the Member States are encouraged to consult widely, with a particular emphasis on users.

2.3. Need for an instrument specifying the public service obligations and the methods of calculating compensation

11. The concept of service of general economic interest within the meaning of Article 86 of the EC Treaty means that the undertakings in question have been entrusted with a special task by the State (2). Public authorities remain responsible — with the exception of the sectors in which there are Community rules governing the matter — for setting the framework of criteria and conditions for the provision of services, regardless of the legal

status of the provider and of whether the service is provided on the basis of free competition. Accordingly, a public service assignment is necessary in order to define the obligations of the undertakings in question and of the State. The term 'State' covers the central, regional and local authorities.

12. Responsibility for operation of the service of general economic interest must be entrusted to the undertaking concerned by way of one or more official acts, the form of which may be determined by each Member State. The act or acts must specify, in particular:

- (a) the precise nature and the duration of the public service obligations;
- (b) the undertakings and territory concerned;
- (c) the nature of any exclusive or special rights assigned to the undertaking;
- (d) the parameters for calculating, controlling and reviewing the compensation;
- (e) the arrangements for avoiding and repaying any overcompensation.

13. When defining public service obligations and in assessing whether those obligations are met by the undertakings concerned, Member States are invited to consult widely, with particular emphasis on users.

2.4. Amount of compensation

14. The **amount of compensation** may not exceed what is necessary to cover the costs incurred in discharging the public service obligations, taking into account the relevant receipts and reasonable profit for discharging those obligations. The amount of compensation includes all the advantages granted by the State or through State resources in any form whatsoever. The reasonable profit may include all or some of the productivity gains achieved by the undertakings concerned during an agreed limited period without reducing the level of quality of the services entrusted to the undertaking by the State.

15. In any event, compensation must be actually used for the operation of the service of general economic interest concerned. Public service compensation granted for the operation of a service of general economic interest, but actually used to operate on other markets is not justified, and consequently constitutes incompatible State aid. The undertaking receiving public service compensation may, however, enjoy a reasonable profit.

16. The **costs to be taken into consideration** include all the costs incurred in the operation of the service of general economic interest. Where the activities of the undertaking in question are confined to the service of general economic interest, all its costs may be taken into consideration. Where the undertaking also carries out activities falling outside the scope of the service of general economic interest, only the costs associated with the service of general economic interest may be taken into consideration. The costs allocated to the service of general economic interest may cover all the variable costs incurred in providing the service of general economic interest, an appropriate contribution to fixed costs common to both the service of general economic interest and other activities and an adequate return on the own capital assigned to the service of general economic interest (3). The costs linked with investments, notably concerning infrastructure, may be taken into account when necessary for the functioning of the service of general economic interest. The costs linked to any activities outside the scope of the service of general economic interest must cover all the variable costs, an appropriate contribution to fixed common costs and an adequate return on capital. These costs may, under no circumstances, be imputed to the service of general economic interest. The calculation of costs must follow criteria which have previously been defined and be based on generally accepted cost accounting principles which must be brought to the knowledge of the Commission in the context of the notification pursuant to Article 88(3) of the EC Treaty.

17. The **revenue to be taken into account** must include at least the entire revenue earned from the service of general economic interest. If the undertaking in question holds special or exclusive rights linked to a service of general economic interest that generates profit in excess of the reasonable profit, or benefits from other advantages granted by the State, these must be taken into consideration, irrespective of their classification for the purposes of Article 87 of the EC Treaty, and are added to its revenue. The Member State may also decide that the profits accruing from other activities outside the scope of the service of general economic interest must be allocated in whole or in part to the financing of the service of general economic interest.

18. '**Reasonable profit**' should be taken to mean a rate of return on own capital that takes account of the risk, or absence of risk, incurred by the undertaking by virtue of the intervention by the Member State, particularly if the latter grants exclusive or special rights. This rate must normally not exceed the average rate for the sector concerned in recent years. In sectors where there is no undertaking comparable to the undertaking

entrusted with the operation of the service of general economic interest, a comparison may be made with undertakings situated in other Member States, or if necessary, in other sectors, provided that the particular characteristics of each sector are taken into account. In determining what amounts to a reasonable profit, the Member State may introduce incentive criteria relating, among other things, to the quality of service provided and gains in productive efficiency.

19. When a company carries out activities falling both inside and outside the scope of the service of general economic interest, the internal accounts must show separately the costs and receipts associated with the service of general economic interest and those associated with other services, as well as the parameters for allocating costs and revenues. Where an undertaking is entrusted with the operation of several services of general economic interest either because the authority assigning the service of general economic interest is different or because the nature of the service of general economic interest is different, the undertaking's internal accounts must make it possible to ensure that there is no over-compensation at the level of each service of general economic interest. These principles are without prejudice to the provisions of Directive 80/723/EEC in cases where that Directive applies.

(1) 'Undertaking' is to be understood as any entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed. 'Public undertaking' is to be understood as any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it, as defined in Article 2(1)(b) of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 195, 29.7.1980, p. 35. Directive as last amended by Directive 2000/52/EC, OJ L 193, 29.7.2000, p. 75).

(2) See, in particular, the judgment in Case C-127/73 *BRT v SABAM* [1974] ECR-313

(3) See Joined Cases C-83/01P, C-93/01P and C-94/01P *Chronopost SA* [2003] ECR I - 6993

3. OVER-COMPENSATION

20. Member States must check regularly, or arrange for checks to be made, to ensure that there has been no over-compensation. Since over-compensation is not necessary for the operation of the service of general economic interest, it constitutes incompatible State aid that must be repaid

to the State, and for the future, the parameters for the calculation of the compensation must be updated.

21. Where the amount of over-compensation does not exceed 10% of the amount of annual compensation, such over-compensation may be carried forward to the next year. Some services of general economic interest may have costs that vary significantly each year, notably as regards specific investments. In such cases, exceptionally, over-compensation in excess of 10% in certain years may prove necessary for the operation of the service of general economic interest. The specific situation which may justify over-compensation in excess of 10% should be explained in the notification to the Commission. However, the situation should be reviewed at intervals determined on the basis of the situation in each sector which, in any event, should not exceed four years. All over-compensation discovered at the end of that period should be repaid.

22. Any over-compensation may be used to finance another service of general economic interest operated by the same undertaking, but such a transfer must be shown in the undertaking's accounts and be carried out in accordance with the rules and principles set out in this framework, notably as regards prior notification. The Member States must ensure that such transfers are subjected to proper control. The transparency rules laid down in Directive 80/723/EEC apply.

23. The amount of over-compensation cannot remain available to an undertaking on the ground that it would rank as aid compatible with the Treaty (for example, environmental aid, employment aid and aid for small and medium-sized enterprises). If a Member State wishes to grant such aid, the prior notification procedure laid down in Article 88(3) of the EC Treaty should be complied with. Aid may be disbursed only if it has been authorised by the Commission. If such aid is compatible with a block exemption Regulation, the conditions of the relevant block exemption Regulation must be fulfilled.

4. CONDITIONS AND OBLIGATIONS ATTACHED TO COMMISSION DECISIONS

24. According to Article 7(4) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (1), the Commission may attach to a positive decision conditions subject to which an aid may be considered compatible with the common market, and lay down obligations to enable compliance with the decision to be monitored. In the field of services of general economic interest, conditions and obligations may be necessary notably to ensure that aid granted to the

undertakings concerned does not actually lead to over-compensations. In this context, periodical reports or other obligations may be necessary, in the light of the specific situation of each service of general economic interest.

(1) OJ L 83, 27.3.1999, p. 1. Regulation as amended by the 2003 Act of Accession.

5. APPLICATION OF THE FRAMEWORK

25. This framework will apply for a period of six years from the date of its publication in the *Official Journal of the European Union*. The Commission may, after consulting the Member States, amend the framework before it expires, for important reasons linked to the development of the common market. Four years after the date of publication of this framework, the Commission will undertake an impact assessment based on factual information and the results of wide consultations conducted by the Commission on the basis, notably, of data provided by the Member States. The results of the impact assessment will be made available to the European Parliament, the Committee of Regions and the Economic and Social Committee and to the Member States.

26. The Commission will apply the provisions of this framework to all aid projects notified to it and will take a decision on those projects after the framework is published in the Official Journal, even if the projects were notified prior to such publication. In the case of non-notified aid, the Commission will apply:

(a) the provisions of this framework, if the aid was granted after publication of the framework in the Official Journal;

(b) the provisions in force at the time the aid was granted, in all other cases.

6. APPROPRIATE MEASURES

27. The Commission proposes as appropriate measures for the purposes of Article 88(1) of the EC Treaty that Member States bring their existing schemes regarding public service compensation into line with this framework, within 18 months following its publication in the Official Journal. Member States should confirm to the Commission within one month of publication of the framework in the Official Journal that they agree to the appropriate measures proposed. In the absence of any reply, the Commission will take it that the Member State concerned does not agree.”.

PART 3

AMENDMENT OF TAXES CONSOLIDATION ACT 1997

19.—Section 112A is amended—

Amendment of section 112A of Act of 1997.

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

“(1) In this section—

- (a) as respects so much of a payment that qualifies for relief under section 470, ‘appropriate percentage’, ‘authorised insurer’, ‘relevant contract’ and ‘relievable amount’ have the same meanings, respectively, as in section 470,
- (b) as respects so much of a payment that qualifies for relief under section 470B, ‘authorised insurer’ and ‘relevant contract’ have the same meanings, respectively, as in section 470B,
- (c) ‘employee’ and ‘employer’ have the same meanings, respectively, as in section 983, and
- (d) ‘qualifying insurer’ and ‘qualifying long-term care policy’ have the same meanings, respectively, as in section 470A.”,

(b) by inserting the following subsection after subsection (2):

“(2A) Where, for any relevant year of assessment, an employer makes a payment of emoluments to an employee consisting of a perquisite in the form of a payment to an authorised insurer under a relevant contract, and such payment qualifies for relief under section 470B for that relevant year of assessment, section 112 shall apply as if the perquisite were increased by the amount of the age-related tax credit or age-related tax credits, as the case may be, that the employee is entitled to under section 470B in respect of the payment.”, and

(c) in subsection (3), by deleting “(within the meaning of section 983)”.

20.—Section 458 of the Act of 1997 is amended, in the Table to that section, in Part 2, by inserting “section 470B” before “section 472”.

Amendment of section 458 of Act of 1997.

21.—Section 470 of the Act of 1997 is amended, in subsection (1), in the definition of “relievable amount”—

Amendment of section 470 of Act of 1997.

- (a) in paragraph (a), by inserting “reduced by the amount of credit due (if any) under section 470B(4)” after “amount of the payment”, and
- (b) in paragraph (b), by inserting “reduced by the amount of credit due (if any) under section 470B(4)” after “referable to such reimbursement or discharge”.

Age-related relief for health insurance premiums.

22.—The Act of 1997 is amended by inserting the following section after section 470A:

“470B.—(1) In this section—

‘age-related tax credit’ has the same meaning as in subsection (4);

‘authorised insurer’ means any undertaking (not being a restricted membership undertaking) entered in The Register of Health Benefits Undertakings, lawfully carrying on such business of medical insurance referred to in the definition of ‘relevant contract’ but, in relation to an individual, also means any undertaking (not being a restricted membership undertaking) authorised pursuant to Council Directive No. 73/239/EEC of 24 July 1973¹, Council Directive No. 88/357/EEC of 22 June 1988², and Council Directive No. 92/49/EEC of 18 June 1992³, where such a contract was effected with the individual when the individual was not resident in the State but was resident in another Member State of the European Communities;

‘employee’ and ‘employer’ have the same meanings, respectively, as in section 983;

‘excluded contract of insurance’ means—

- (a) a contract of insurance which comes within the meaning of paragraph (d) of the definition of ‘health insurance contract’ in section 2(1) of the Health Insurance Act 1994, or
- (b) a contract of insurance relating solely to charges for public hospital in-patient services made under the Health (In-Patient Charges) Regulations 1987 (S.I. No. 116 of 1987);

‘in-patient indemnity payment’ has the same meaning as in section 2(1) of the Health Insurance Act 1994;

‘insured person’, in relation to a relevant contract, means an individual, the spouse of the individual, or the children or other dependents of the individual or of the spouse of the individual, in respect of whom the relevant contract provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of section 469);

‘PPS Number’, in relation to an individual, means that individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘relevant contract’ means a contract of insurance (not being an excluded contract of insurance) which provides for the making of in-patient indemnity payments under the contract and which, in relation to an individual, the spouse of the individual, or the children or other dependents of the individual or of the spouse of the individual, provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge,

¹OJ No. L228 of 16 August 1973, p.3

²OJ No. L172 of 4 July 1988, p.1

³OJ No. L228 of 11 August 1992, p.1

in whole or in part, of actual health expenses (within the meaning of section 469), being a contract of medical insurance;

‘relevant year of assessment’ means—

- (a) subject to paragraph (b), the year of assessment 2009, 2010 or 2011,
- (b) where a payment made to an authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under a relevant contract, and the payment of such an instalment becomes due and is made in the year of assessment 2012, the year of assessment 2012;

‘relievable amount’, in relation to a payment to an authorised insurer under a relevant contract, means—

- (a) where the payment covers no benefits other than such reimbursement or discharge as is referred to in the definition of ‘relevant contract’, an amount equal to the full amount of the payment, or
- (b) where the payment covers benefits other than such reimbursement or discharge as is referred to in that definition, an amount equal to so much of the payment as is referable to such reimbursement or discharge;

‘restricted membership undertaking’ has the same meaning as in section 2(1) of the Health Insurance Act 1994.

(2) This section applies to a payment made to an authorised insurer under a relevant contract renewed or entered into on or after 1 January 2009 but before 1 January 2012 where the payment qualifies for relief under section 470(2).

(3) Notwithstanding section 470(4), relief due under this section shall be given in addition to relief given under section 470.

(4) Subject to subsections (5) and (6), where for a relevant year of assessment, an individual or, if the individual is a married person assessed to tax in accordance with section 1017, the individual’s spouse, makes a payment to an authorised insurer under a relevant contract and—

- (a) the payment is in respect of a premium due under the relevant contract and the relevant contract was renewed or entered into on or after 1 January 2009 but before 1 January 2012, and
- (b) the payment or part of the payment, as the case may be, is attributable to an insured person, and only to an insured person, who is aged 50 years or over on the date the relevant contract is renewed or entered into, as the case may be,

then the individual shall, for the relevant year of assessment, in respect of so much of the relievable amount of the payment or part of the payment, as the case may be, as is attributable to an insured person referred to in paragraph (b), be entitled to a

credit (referred to in this section as ‘age-related tax credit’) equal to the lower of—

- (i) the amount specified in the second column of the Table to this subsection corresponding to the class of insured person mentioned in the first column of that Table or, where the payment made to the authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract, an amount equal to the amount so specified divided by the total number of instalments to be made to pay such total annual premium, and
- (ii) an amount which reduces the income tax to be charged on the individual for the relevant year of assessment, other than in accordance with section 16(2), to nil.

TABLE

(1) Class of insured person	(2) Amount of age-related tax credit
Aged 50 years and over but less than 60 years on the date the relevant contract is renewed or entered into, as the case may be.	€200.00
Aged 60 years and over but less than 70 years on the date the relevant contract is renewed or entered into, as the case may be.	€500.00
Aged 70 years and over but less than 80 years on the date the relevant contract is renewed or entered into, as the case may be.	€950.00
Aged 80 years and over on the date the relevant contract is renewed or entered into, as the case may be.	€1,175.00

- (5) (a) The amount of age-related tax credit given for a relevant year of assessment in respect of an insured person shall not exceed the amount of the payment made to an authorised insurer under a relevant contract in respect of the insured person for the relevant year of assessment.
- (b) Where an individual makes a payment to an authorised insurer that entitles the individual to an age-related tax credit or age-related tax credits, as the case may be, for the year of assessment 2012, the aggregate amount of the age-related tax credit given to the individual in respect of an insured person or insured persons, as the case may be, for that year and the year of assessment 2011 shall not exceed the age-related tax credit or age-related tax credits, as the case may be, that the individual would have been entitled to if the total annual premium due under the relevant contract in respect of the insured person or insured persons, as the case may be, had been paid in the year of assessment 2011.

- (c) Where, for any relevant year of assessment, an employer makes a payment of emoluments to an employee consisting of a perquisite in the form of a payment to an authorised insurer under a relevant contract, and—
- (i) the payment qualifies for relief under this section for that relevant year of assessment, and
 - (ii) the aggregate of the age-related tax credit or age-related tax credits, as the case may be, and relief under section 470 due in respect of the payment exceeds the amount of the income tax chargeable, in accordance with sections 112 and 112A, in respect of the perquisite (in this paragraph referred to as ‘the excess’),

the excess may not reduce the income tax chargeable on any other income of the employee for that year of assessment or, if the employee is a married person assessed to tax in accordance with section 1017, the income tax chargeable on any income of the employee’s spouse for that year of assessment.

- (6) (a) Where an individual makes a payment to an authorised insurer that entitles the individual to an age-related tax credit or age-related tax credits, as the case may be, for a relevant year of assessment, the individual shall be entitled to deduct and retain out of it—
- (i) if the payment made is the total annual premium due under the relevant contract concerned for the relevant year of assessment, an amount equal to the total amount of the age-related tax credit or age-related tax credits, as the case may be,
 - (ii) if the payment made is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract concerned for the relevant year of assessment, an amount equal to the total amount of the age-related tax credit or age-related tax credits, as the case may be, to which the individual would be entitled if all of that total annual premium were paid divided by the total number of such instalments to be made to pay that total annual premium.
- (b) An authorised insurer to which a payment referred to in paragraph (a) is made—
- (i) shall accept the amount paid, after the deduction of the age-related tax credit or age-related tax credits, as the case may be, in discharge of the individual’s liability to the same extent as if the deduction had not been made, and

- (ii) may, on making a claim in accordance with regulations, recover from the Revenue Commissioners an amount equal to the amount deducted.
- (c) Where an individual makes a payment referred to in paragraph (a) in respect of a premium due under a contract renewed or entered into on or after 1 January 2009 but before the passing of the *Health Insurance (Miscellaneous Provisions) Act 2009*, the individual shall be deemed to have deducted and retained out of the payment an amount equal to the amount of the age-related tax credit or age-related tax credits, as the case may be, that the individual is entitled to under this section in respect of that payment.
- (d) An amount that an individual is entitled to deduct and retain out of a payment referred to in paragraph (a) shall be in addition to the amount that the individual is entitled to deduct and retain out of the payment in accordance with section 470(3).
- (7) (a) The Revenue Commissioners shall make regulations providing generally for the administration of this section and those regulations may, in particular and without prejudice to the generality of the foregoing, include provision—
 - (i) that a claim under subsection (6)(b)(ii) by an authorised insurer, which has registered with the Revenue Commissioners for the purposes of making such a claim, shall—
 - (I) be made in such form and manner,
 - (II) be made at such time,
 - (III) be accompanied by such documents, and
 - (IV) be accompanied by such information as respects the amount of premiums paid under relevant contracts in respect of insured persons aged 50 years or over in a relevant year of assessment and the number of such individuals within each class,

as provided for in the regulations,
 - (ii) for the making of annual information returns by authorised insurers, in such form (including electronic form) and manner as may be provided for in the regulations, and containing specified details in relation to—
 - (I) each individual making payments, to which this section applies, to such insurers under relevant contracts in a relevant year of assessment,
 - (II) each insured person aged 50 years or over, in respect of whom such payments were

made in the relevant year of assessment, including—

- (A) the name of the insured person,
 - (B) the date of birth of the insured person, and
 - (C) the PPS Number of the insured person,
- (III) the total amount of premiums paid by the individual under a relevant contract in respect of an insured person aged 50 years or over in a relevant year of assessment, and
- (IV) the total amount deducted under subsection (6)(a) by the individual making the payments in the relevant year of assessment concerned,
- and
- (iii) for the furnishing of any other information that the Revenue Commissioners may reasonably require for the purposes of the regulations.
- (b) 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.
- (8) (a) Where any amount is paid to an authorised insurer by the Revenue Commissioners as an amount recoverable by virtue of subsection (6)(b) but is an amount to which the authorised insurer is not entitled, that amount shall be repaid by the authorised insurer.
- (b) There shall be made such assessments, adjustments or set-offs as may be required for securing repayment of the amount referred to in paragraph (a) and the provisions of the Income Tax Acts relating to the assessment, collection and recovery of income tax shall, in so far as they are applicable and with necessary modification, apply in relation to the recovery of such amount.”.

23.—Section 904E of the Act of 1997 is amended—

Amendment of section 904E of Act of 1997.

- (a) in subsection (1), by substituting the following definition for the definition of “authorised insurer”:

“ ‘authorised insurer’—

- (a) subject to paragraph (b), has the same meaning as in section 470,

(b) in relation to a claim made under section 470B(6)(b)(ii), has the same meaning as in section 470B;”,

and

(b) in subsection (2), by inserting “or 470B(6)(b)(ii)” after “section 470(3)(b)(ii)”.

Amendment of section 1024 of Act of 1997.

24.—Section 1024 of the Act of 1997 is amended, in subsection (2)(a)(vi), by inserting “, 470B” after “sections 470, 470A”.

Amendment of Schedule 29 to Act of 1997.

25.—The Act of 1997 is amended, in Schedule 29, in column 1, by inserting “section 470B and Regulations under that section” before “section 473”.

PART 4

AMENDMENT OF STAMP DUTIES CONSOLIDATION ACT 1999

Levy on authorised insurers.

26.—The Stamp Duties Consolidation Act 1999 is amended by inserting the following section after section 125:

“125A.—(1) In this section—

‘accounting period’ means the first accounting period, the second accounting period, the third accounting period or the fourth accounting period;

‘authorised insurer’ means any undertaking (not being a restricted membership undertaking) entered in The Register of Health Benefits Undertakings, lawfully carrying on such business of medical insurance referred to in the definition of ‘relevant contract’ but, in relation to an individual, also means any undertaking (not being a restricted membership undertaking) authorised pursuant to Council Directive No. 73/239/EEC of 24 July 1973⁴, Council Directive No. 88/357/EEC of 22 June 1988⁵, and Council Directive No. 92/49/EEC of 18 June 1992⁶, where such a contract was effected with the individual when the individual was not resident in the State but was resident in another Member State of the European Communities;

‘due date’, in relation to an accounting period, means—

- (a) 30 September 2009 in the case of the first accounting period,
- (b) 30 September 2010 in the case of the second accounting period,
- (c) 30 September 2011 in the case of the third accounting period, and

⁴OJ No. L228 of 16 August 1973, p.3

⁵OJ No. L172 of 4 July 1988, p.1

⁶OJ No. L228 of 11 August 1992, p.1

(d) 31 January 2012 in the case of the fourth accounting period;

‘excluded contract of insurance’ means—

- (a) a contract of insurance which comes within the meaning of paragraph (d) of the definition of ‘health insurance contract’ in section 2(1) of the Health Insurance Act 1994, or
- (b) a contract of insurance relating solely to charges for public hospital in-patient services made under the Health (In-Patient Charges) Regulations 1987 (S.I. No. 116 of 1987);

‘first accounting period’ means the period of 7 months commencing on 1 January 2009 and ending on 31 July 2009;

‘fourth accounting period’ means the period of 5 months commencing on 1 August 2011 and ending 31 December 2011;

‘in-patient indemnity payment’ has the same meaning as in section 2(1) of the Health Insurance Act 1994;

‘insured person’, in relation to a relevant contract, means an individual, the spouse of the individual, or the children or other dependents of the individual or of the spouse of the individual, in respect of whom the relevant contract provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of section 469 of the Taxes Consolidation Act 1997);

‘relevant contract’ means a contract of insurance (not being an excluded contract of insurance) which provides for the making of in-patient indemnity payments under the contract and which, in relation to an individual, the spouse of the individual, or the children or other dependents of the individual or of the spouse of the individual, provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of section 469 of the Taxes Consolidation Act 1997), being a contract of medical insurance;

‘restricted membership undertaking’ has the same meaning as in section 2(1) of the Health Insurance Act 1994;

‘second accounting period’ means the period of 12 months commencing on 1 August 2009 and ending on 31 July 2010;

‘third accounting period’ means the period of 12 months commencing on 1 August 2010 and ending on 31 July 2011.

(2) Subject to subsections (7), (10) and (11), an authorised insurer shall, in respect of each accounting period and not later than the due date, deliver to the Commissioners a statement in writing showing the number of insured persons—

- (a) aged less than 18 years—
 - (i) on 1 January 2009 in the case of the first accounting period,

(ii) on 1 January 2010 in the case of the second accounting period,

(iii) on 1 January 2011 in the case of the third accounting period, and

(iv) on 1 August 2011 in the case of the fourth accounting period,

and

(b) aged 18 years or over—

(i) on 1 January 2009 in the case of the first accounting period,

(ii) on 1 January 2010 in the case of the second accounting period,

(iii) on 1 January 2011 in the case of the third accounting period, and

(iv) on 1 August 2011 in the case of the fourth accounting period,

in respect of whom a relevant contract between the authorised insurer and the insured person, being the individual referred to in the definition of ‘insured person’, is renewed, or entered into, during the accounting period concerned.

(3) There shall be charged on every statement delivered by an authorised insurer pursuant to subsection (2) a stamp duty at the rate of—

(a) €53 in respect of each insured person aged less than 18 years, and

(b) €160 in respect of each insured person aged 18 years or over,

included in the statement.

(4) The duty charged by subsection (3) on a statement delivered by an authorised insurer pursuant to subsection (2) shall be paid by the authorised insurer on delivery of the statement.

(5) There shall be furnished to the Commissioners by an authorised insurer such particulars as the Commissioners may deem necessary in relation to any statement required by this section to be delivered by the authorised insurer.

(6) In the case of failure by an authorised insurer in respect of an accounting period—

(a) to deliver not later than the due date any statement required by subsection (2) to be delivered by the authorised insurer, or

(b) to pay the stamp duty chargeable on any such statement on the delivery of the statement,

the authorised insurer shall—

- (i) from that due date until the day on which the stamp duty is paid, be liable to pay, in addition to the duty, interest on the stamp duty calculated in accordance with section 159D, and
- (ii) from that due date, be liable to pay a penalty of €380 for each day the duty remains unpaid.

(7) Where during any accounting period but before the due date—

- (a) an authorised insurer ceases to carry on a business in the course of which the insurer is required to deliver a statement (in this subsection referred to as the ‘first-mentioned statement’) pursuant to subsection (2) (including any case where the authorised insurer is so required by virtue of the prior operation of this subsection) but has not done so before that cesser, and
- (b) another person (in this subsection referred to as the ‘successor’) acquires the whole, or substantially the whole, of the business,

then—

- (i) the authorised insurer is not required to deliver the first-mentioned statement, and
- (ii) the successor shall—
 - (I) if the successor is, apart from this subsection, required to deliver a statement (in this subsection referred to as the ‘second-mentioned statement’) pursuant to subsection (2) (including any case where the successor is so required by virtue of the prior operation of this subsection) in respect of the same accounting period but has not done so before that acquisition, include in that second-mentioned statement the number of insured persons that would have been required to have been shown in the first-mentioned statement had the authorised insurer not ceased to carry on the business concerned,
 - (II) if subparagraph (I) is not applicable, deliver the first-mentioned statement as if the successor were the authorised insurer.

(8) The delivery of any statement required by subsection (2) may be enforced by the Commissioners under section 47 of the Succession Duty Act 1853 in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section.

(9) The stamp duty, interest and any penalty payable under this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty payable by the authorised insurer which is under the care and management of the Commissioners.

(10) Where an insured person, being the individual referred to in the definition of 'insured person', shows to the satisfaction of an authorised insurer (in this subsection referred to as the 'second authorised insurer') that another authorised insurer (in this subsection referred to as the 'first authorised insurer') with whom that individual renewed, or entered into, a relevant contract during an accounting period, was required to include that insured person in a statement to be delivered pursuant to subsection (2) to the Commissioners in respect of the same accounting period, then the second authorised insurer, with whom the individual entered into a later relevant contract during the same accounting period, may exclude such insured person from the statement to be delivered pursuant to subsection (2) to the Commissioners by the second authorised insurer in respect of the same accounting period.

(11) Where an insured person, being an insured person under a relevant contract who is not the individual referred to in the definition of 'insured person' in relation to the relevant contract concerned, shows to the satisfaction of an authorised insurer (in this subsection referred to as the 'second authorised insurer') that another authorised insurer (in this subsection referred to as the 'first authorised insurer') with whom that person was an insured person named on a relevant contract renewed, or entered into, by an individual referred to in the definition of 'insured person' during an accounting period, was required to include that insured person in a statement to be delivered pursuant to subsection (2) to the Commissioners for the same accounting period, then the second authorised insurer, with whom the insured person entered into a relevant contract during the same accounting period, may exclude such insured person from the statement to be delivered pursuant to subsection (2) to the Commissioners by the second authorised insurer in respect of the same accounting period.

(12) Section 126B shall apply to a statement referred to in subsection (2) as if a reference to this section were included in the definition of 'specified section' in subsection (1) of that section.

(13) Where—

- (a) a relevant contract is renewed or entered into by an individual referred to in the definition of 'insured person' during an accounting period (in this subsection referred to as the 'initial accounting period'), and
- (b) the relevant contract is for a period of more than 12 months,

then, without prejudice to the treatment to be accorded to the relevant contract and the initial accounting period by subsection (2), the relevant contract shall be deemed, for the purposes of this section, to be renewed during—

- (i) the accounting period which immediately succeeds the initial accounting period if the second 12 months, or lesser period, of the relevant contract commences during such immediately succeeding accounting period, and

- (ii) each further accounting period where any subsequent 12 months, or lesser period, of the relevant contract commences during such further accounting period.”.

PART 5

AMENDMENT OF INSURANCE ACT 1936

27.—Section 3 of the Insurance Act 1936 is amended by substituting the following definition for the definition of “premium”:

Amendment of section 3 of Insurance Act 1936.

“the word ‘premium’ means any money or money’s worth payable or paid to any person who carries on an assurance business and who in consideration of such money or money’s worth undertakes any liability under any policy, bond or certificate, except that, for the purposes of—

- (a) calculating the solvency measures of such business (including any solvency margin or solvency ratio thereof), or
- (b) computing such a person’s profits for an accounting period for the purposes of corporation tax within the meaning of the Taxes Consolidation Act 1997,

such word does not include money or money’s worth of an amount equal to the amount payable or paid by such a person in respect of a stamp duty under section 125A of the Stamp Duties Consolidation Act 1999;”.