



**FINANCE (NO. 2)
ACT, 2000 AND
FINANCE ACT 2001**

(A) CLAWBACK OF STAMP DUTY

The Finance (No. 2) Act 2000 makes provision for the clawback of stamp duty in certain cases where a property or its owner cease to meet the requirements set down by the Act in order to qualify for stamp duty reliefs.

The Conveyancing Committee has made enquiries with the Revenue Commissioners as to whether or not it is necessary for a subsequent purchaser of the property in question to make enquiries at the time of purchase to ascertain if any of the conditions giving rise to a clawback has occurred.

The Revenue Commissioners have confirmed that the clawback provisions in relation to the exemptions and reduced rates of stamp duty for first time buyers and other owner occupiers contained in the Finance (No. 2) Act 2000 impose a penalty payable by the purchaser who originally obtained the benefit of the relief in question. Revenue has confirmed that a subsequent purchaser has no responsibility in relation to the clawback and is under no obligation to the Revenue to make any enquiries as to whether circumstances giving rise to such a clawback have arisen.

(B) REFUNDS OF STAMP DUTY

The Finance (No. 2) Act 2000 deemed a person separated by a decree of judicial separation, or whose marriage had been dissolved by a decree of divorce, to be a first time purchaser in certain circumstances and subject to certain conditions. The Finance Act 2001 has extended this relief to persons separated by means of a deed of separation, or whose marriage has been the subject of a decree of nullity, again in certain circumstances and subject to certain conditions. These additional categories have been made applicable with retrospective effect to the 15th June 2000. If purchasers who fulfil the new criteria have paid stamp duty since that date they are entitled to claim a refund of the stamp duty paid.

The Finance Act 2001 also provided for a reduction of the 9% stamp duty rate which applied to investors purchasing new houses / apartments. This reduction applies retrospectively to instruments executed on or after the 27th February 2001. If investors have paid the higher rate of stamp duty since that date, an appropriate entitlement to claim a refund will also arise.