

## **76AN. When statement to be lodged**

- (1) Where by a relevant acquisition a person acquires a majority interest or a further interest in —
  - (a) a corporation to which this Division applies; or
  - (b) a corporation to which this Division would apply if the reference to the value of land in section 76AP(2)(b) were a reference to the value of land, goods, wares and merchandise,

the corporation shall prepare and lodge with the Commissioner a statement in respect of that acquisition.

- (2) The statement shall be lodged within 3 months of the occurrence of the relevant acquisition.
- (3) The statement shall be in a form approved by the Commissioner and shall include the following information —
  - (a) the name and address of the person who has acquired a majority interest or a further interest, and of any related person if the acquisition is required to be aggregated with an acquisition by such person;
  - (b) the date of the acquisition;
  - (c) particulars of the interest acquired and all interests previously acquired by the person or a related person in the corporation;
  - (d) the corporation's estimate of the unencumbered value of all land and chattels in the State to which the corporation is entitled as at that date;
  - (da) particulars of any chattels, whether situated in the State or not, to which the corporation was entitled in the 12 months preceding that date and acquired, directly or indirectly, by the person or a related person in that period;
  - (db) the corporation's estimate of the unencumbered value of those chattels;
  - (e) the corporation's estimate of the unencumbered value of the property of the corporation as at that date; and
  - (f) if the statement is lodged because of subsection (1)(b), a notation to that effect and such information relating to the goods, wares and merchandise referred to in subsection (1)(b), and their ownership and acquisition, as the approved form requires to be provided.
- (4) For the purposes of this Act —
  - (a) a statement lodged because of subsection (1)(a); and
  - (b) subject to subsection (4c), a statement lodged because of subsection (1)(b),

is to be regarded as an instrument executed on the day on which the relevant acquisition occurs.

- (4a) If, in the case of a statement lodged because of subsection (1)(b), the Commissioner is satisfied that the entitlement to, and valuation of, the goods, wares and merchandise referred to in subsection (1)(b) were not part of an arrangement or scheme having as its purpose, or one of its purposes, the

defeat of the object of this Division, the Commissioner may determine that subsection (4) does not apply to the statement.

- (4b) In deciding whether or not to make a determination under subsection (4a) the Commissioner may have regard to —
- (a) the source of the goods, wares and merchandise and the source of funding for their acquisition;
  - (b) their nature and their relevance to any business carried on by the corporation, trustee or related corporation;
  - (c) the period for which they have been and are likely to remain the property of the corporation, trustee or related corporation; and
  - (d) any other matter that the Commissioner considers relevant.
- (4c) A determination made under subsection (4a) has effect according to its terms and the Commissioner is to give written notice of it to the corporation.
- (4d) If the corporation requests the Commissioner, in writing, to give reasons why the Commissioner has not made a determination under subsection (4a), the Commissioner is to give written reasons to the corporation.
- (4e) A corporation that —
- (a) is required to lodge a statement because of subsection (1)(b); and
  - (b) fails to do so within the period set out in subsection (2),
- commits an offence against this Act.
- (5) A corporation that lodges a statement under subsection (1) which is false in a material particular commits an offence against this Act.

*[Section 76AN inserted by No. 33 of 1987 s.22<sup>18</sup>; amended by No. 41 of 1989 s.16; No. 22 of 1998 ss.38 and 41; No. 60 of 2000 s.13; No. 3 of 2001 s. 21.]*