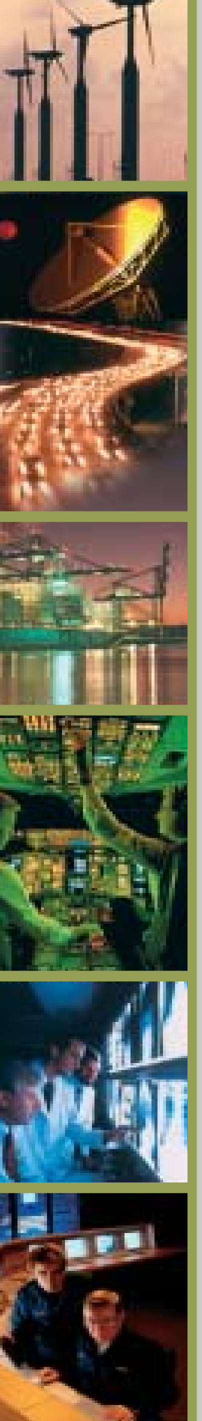
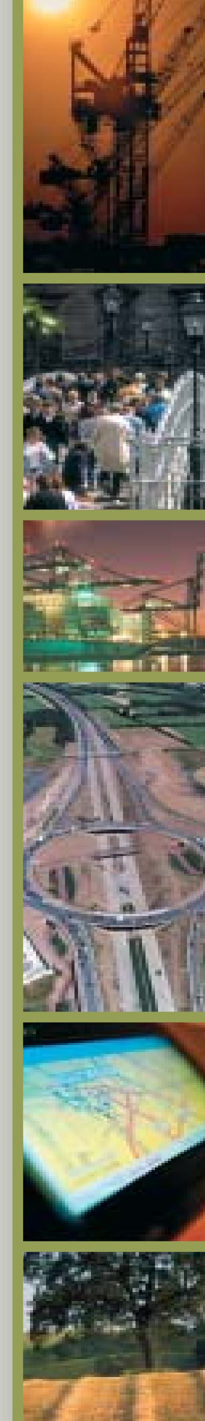


INVESTING & LIVING IN IRELAND

William Fry
SOLICITORS



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INTRODUCTION

Ireland is one of the most popular and profitable locations for multinationals wishing to invest in Europe and accounts for over a quarter of all US manufacturing investment in Europe.

In 2002, merchandise exports from Ireland amounted to €86.2bn and imports to €51.2bn, giving Ireland by far the biggest trade surplus as a percentage of GDP in the OECD, except for oil-exporting Norway. The increase in exports has been driven by firms in the technology and chemicals industries, most of which are foreign-owned.

There are many contributing factors to the success of Ireland in appealing to inward investors, including favourable government support, the provision of generous development incentives and a low corporate tax environment.

Ireland is also renowned for its young, highly-skilled workforce and its rapidly growing economy. The country has a well-developed sub-supply industry, supported by comprehensive logistical expertise and an advanced telecommunications system.

Last but by no means least, Ireland has outstanding natural beauty, a high standard of living and its people enjoy an enviable quality of life.

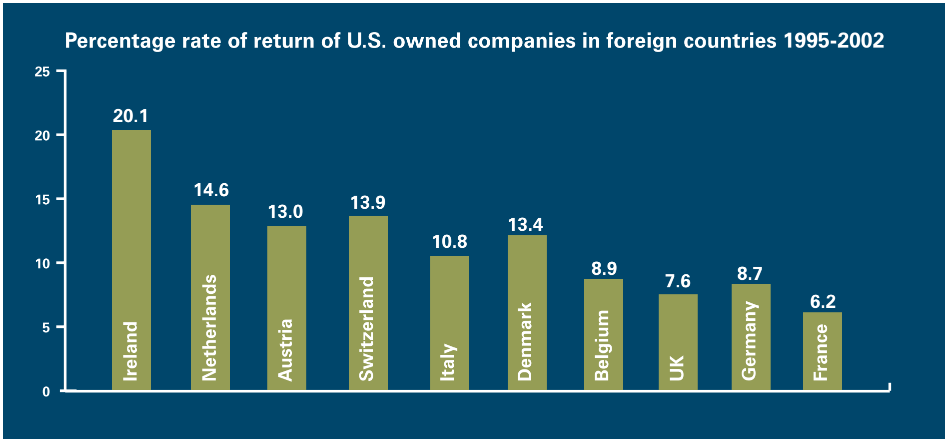
As one of the leading law firms in Ireland, we have a wealth of experience in inward investment and have helped many multinational companies to locate here.
At William Fry we provide a comprehensive range of legal services and taxation services to both Irish and international clients. The firm is a market leader in the commercial, corporate and financial sectors as well as having an extensive range of specialist departments in areas such as employment, tax, property, technology, litigation and many others. Our teams of experts have worked together to produce the latest edition of this guide, which overseas clients have found very useful in the past. We have included a

INTRODUCTION

number of useful links to relevant websites which we hope you find helpful. (See “Further Information” insert.)

We hope that you find this guide to be informative but if you have any further queries, or would like to discuss any issues in more detail, please feel free to contact us directly through our web site - www.williamfry.ie, or by email at info@williamfry.ie

Owen O ‘Connell
Managing Partner



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OVERVIEW OF IRELAND

Geography

- The island of Ireland is situated off the north-west coast of Europe, lying approximately 60 miles west of Great Britain.
- The Republic of Ireland (to which this guide relates and which is referred to as "Ireland") consists of 26 counties. There are a further six counties in the north of the island (Northern Ireland) which are part of the United Kingdom, and the peace plan signed on Good Friday 1998 provides that Northern Ireland is governed by the Northern Ireland Assembly in Belfast.
- The population of Ireland is approximately 4 million, of whom 38% are aged under 25, making it one of the youngest populations in Europe.
- The capital of Ireland is Dublin (population 1.1m) which is seven hours flying time from New York, 55 minutes from London and 2 hours from Frankfurt.
- Ireland is on GMT, 5 hours ahead of New York and 7 hours behind Hong Kong.
- There are over 600 international flights per day in and out of Dublin.

Economy

- GDP is expected to grow by approximately 4.25% in 2004 (OECD Economic Outlook, 2003).
- GNP grew by 9.5% in the period 2000-2001 and by 7.2% in the period 2001-2003. The estimated growth in GNP for 2002-2003 at the time of writing is 5.03% (Central Statistics Office).
- Ireland's total investment in knowledge (spending in R&D, investment in software and higher education) increased by an average annual rate of over 10% over the past decade, compared with averages of around 3% in the EU and OECD.
- Ireland has been a member of the EU since 1973 and was in the first group of European countries to convert to the euro as a single currency which went into general circulation on 1 January 2002.

OVERVIEW OF IRELAND

- The National Development Plan involves an investment of over €52 billion of public, private and EU funds over the period 2000-2006. The Plan involves significant investment in roads, public transport, water and waste services and childcare.

Workforce

- A feature of the Irish market is the availability of a young, well-educated workforce.

- Irish universities and other higher level education centres have more than doubled their combined annual spending on research in recent years.

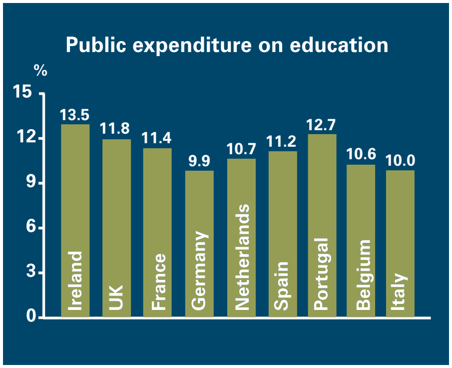
- The Irish government invests heavily in the development of commercially-oriented skills and there are approximately 124,589 people receiving third level education in Ireland (Dept. of Education & Science 2001/2002 academic year).

- Over 33% of Irish people aged 25-34 have a third level education. This rate is among the top five in the EU.

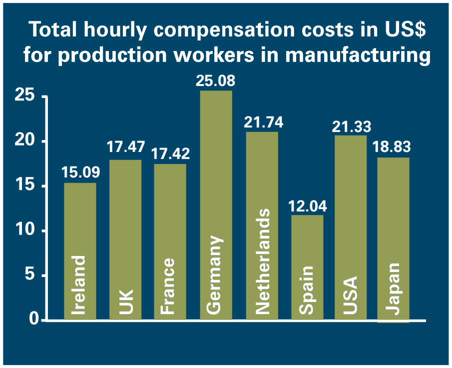
- Ireland produces over 34,000 graduates every year and since 1992 there has been an increase of 35% in students studying third level engineering/technology courses.

- English is universally spoken as the native language of almost all Irish-born citizens.

  The Irish language (Gaelic) is taught as part of the school curriculum and survives in small pockets as a first language (the Gaeltacht) mainly on the western seaboard, where English is also spoken.



OVERVIEW OF IRELAND



Political Structure

- Ireland is a stable parliamentary democracy with a written constitution.

- The parliament is comprised of two houses (an upper and a lower house). Ireland also has a President, currently Mrs. Mary McAleese, who is a constitutional head of state. The President represents the people of Ireland, receiving foreign Heads of State on visits to Ireland, making state visits abroad, and is actively involved in promoting Ireland's interests in the international arena.

- A general election to elect a new government is usually held every five years. The last election was held in May 2002, and resulted in the re-election of the ruling coalition government, comprising the Fianna Fáil and Progressive Democrat parties.

- The Prime Minister is known as the Taoiseach (*T-shock*) and the deputy Prime Minister is known as the Tánaiste (*Tawn-ish-ta*)

- Ireland has been a member of the EU since 1973. Ireland's membership of the EU means that its legislative and political processes are substantially harmonised with those of other EU members and that, in common with other members, much current legislation derives from the implementation of EU directives.

DEVELOPMENT AGENCIES AND INCENTIVES

- IDA Ireland is the main government agency whose task is to encourage foreign enterprises to establish and further develop existing operations in Ireland. Headquartered in Dublin, it has overseas offices throughout the United States, Europe and the Asia-Pacific region. IDA Ireland has different specialist divisions dealing with information, communications and technology (ICT); engineering and consumer products; medical technology; international services; international financial services; and pharmaceuticals and food.

- Certain areas, outside of Dublin, have been targeted for development by the Irish government and benefit from particular incentive schemes. The Shannon Development Zone is one of these areas, which is close to Shannon airport in the mid-west. Shannon Development is a dedicated development agency which operates under a government mandate to spearhead the economic development of the Shannon region, with a specific focus on knowledge enterprise which it manages through a network of technology parks with university linkages.

- The government has also identified certain areas within the State (in agreement with the EU) for special treatment by giving higher levels of grant aid to businesses who locate within these “Objective 1 Regions”. These areas are typically located in the Border, Midlands and West of Ireland, and are known as the “BMW Regions”.

- Enterprise Ireland has specific responsibility for assisting overseas inward investment in the food, drink and timber sectors.

- The “Gaeltacht” comprises Irish-speaking areas primarily on the western seaboard. The agency responsible for these areas is Údarás na Gaeltachta.

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DEVELOPMENT AGENCIES AND INCENTIVES

- The government agency responsible for Irish industrial recruitment and training services is called FÁS. The training syllabus is constantly changing to reflect the demands of the market, with great emphasis being placed on technical and language skills.

- For a company wishing to locate in Ireland, the first step usually involves contacting one of the development agencies through a local office. The development agency will seek a detailed proposal from the company. This should give the history of the company and will include a detailed business plan for the proposed Irish operation.

- The main criteria applied to determine the availability of incentives include:-

  - location chosen within Ireland
  - likely employment levels
  - long-term stability of the industry concerned and
  - suitability of the project to Ireland's long term industrial policy.

- The unique characteristics of any proposed project and its location will determine the incentive package available. It will generally be a matter for negotiation between the prospective investor and the appropriate government agency.

- Before finalising negotiations and entering any agreement with a government agency, many companies choose to instruct a local firm of solicitors (lawyers) who have experience in dealing with such agreements. A grant agreement will typically contain some or all of the following elements:-

  - levels of grant aid and pre-conditions to payment
  - ongoing requirement to furnish information to IDA
  - restrictions on charging Irish assets

DEVELOPMENT AGENCIES AND INCENTIVES

- restrictions on the change of control of a company receiving grant aid and
- requirement that the promoters contribute to working capital.

• As a member of the EU, Ireland provides resident companies with direct access to a market of over 545 million people in 25 countries. There are no tariffs payable on the movement of goods or services within the EU.

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CORPORATE STRUCTURES

Private Limited Companies

- A private company limited by shares is the most common structure utilised by foreign businesses investing in Ireland.

- In general a private company may have between 1 and 50 shareholders.

- Before it is allowed to register as Irish incorporated, a company must demonstrate to the Companies Registration Office (CRO) that it will conduct business in Ireland. The holding of Irish or foreign shares has been accepted as the conducting of business in Ireland.

- An Irish incorporated company must have a minimum of two directors, who must be individuals.

- The company secretary can be a body corporate or an individual person and need not be resident in Ireland. Often an existing director acts as company secretary.

- The registered office of the company must be located within Ireland and the register of the company must be kept there.

- The Memorandum & Articles of Association (M&A), being the main constitutional documents, govern the regulation of the company. They are filed with the CRO and are public documents. There are also other on-going filing requirements which must be complied with.

- An Irish registered company can be formed in 5 business days once agreed-form M&A are used. The M&A of the company can be changed on or after the date of incorporation by shareholder resolution.

- If certain filings are not made with the CRO, the company may be struck off the Register and dissolved. A company is usually warned before the strike-off and can apply to Court to have the company re-instated on the Register of Companies once all the filings are made.

CORPORATE STRUCTURES

- The company must prepare audited accounts to be presented at the annual general meeting of the company and filed with the CRO.

Branches

- A division of a foreign company will be deemed to be an Irish branch if it:-

  - is trading in Ireland
  - has an element of permanency
  - has a separate management presence which is able to negotiate and conclude contracts with third parties and
  - has an element of financial independence.

- An Irish branch of a foreign company may only be liable to Irish Corporation Tax (CT) on profits arising out of the Irish branch income. Generally, the foreign company will obtain credit in its home jurisdiction for any Irish CT paid by the branch provided that the home country has entered into a double taxation treaty with Ireland.

- It is necessary to obtain a Certificate of Registration as a branch from the CRO. Details relating to the company and the person responsible for the branch's operations in Ireland must also be filed.

- Branches are required to file accounts under EU Regulations. In certain circumstances a branch must, on an annual basis, file a balance sheet and profit & loss account with the CRO.

- Most foreign companies operate in Ireland through an Irish incorporated subsidiary company as they tend to be more tax efficient. However, branch structures may be preferable when operating losses are anticipated in the Irish operation as such losses may be available to reduce taxes paid in the home jurisdiction of the foreign company. A tax expert should be consulted, as the final decision relating to the structure is likely to be tax driven. See contact details for William Fry Tax Advisers at the end of this guide.

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DIRECTORS

- A company must have a minimum of two directors.

- Any Irish company incorporated after 18th April 2000 must have at least one Irish resident director or hold a bond to the value of €25,000.

- The residency requirement is based upon the length of time the proposed director has lived in Ireland up to the time of his/her application to become a director.

- The bond must be lodged with the M&A in the CRO. Timing between the date of the bond (which can take 2 - 3 weeks to process) and the lodgement of the incorporation papers is important, as the bond must be issued before the company can be incorporated.

- Any provision in the constitutional documents of an Irish-incorporated company which prohibits an Irish resident from being a director, will be void.

- Neither a body corporate, an undischarged bankrupt, nor the company's auditor can act as a director of a company.

- A director must exercise skill, due diligence and care in the discharge of his/her functions. The degree of necessary skill is that which could reasonably be expected from a person of his/her knowledge and experience.

- An executive director is an employee of the company. The law draws no distinction between the duties of executive and non-executive directors. However, a non-executive director will not necessarily be expected to show the same level of knowledge of the company's day-to-day affairs.

- A director can be held personally liable for the debts of the company, without limitation, and/or be convicted of a criminal offence if he/she is a party to reckless or fraudulent trading or certain specified breaches of the Companies Acts.

DIRECTORS

- Details of the directors of an Irish company must be filed in the CRO as public documents, including addresses, dates of birth and all world-wide directorships.

- A director can only hold up to 25 (with some exceptions) world-wide directorships. Companies in the same group are treated as one for the purposes of this provision.

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TAXATION

- Irish incorporated companies are generally considered to be Irish resident for tax purposes and must register for tax, make full returns of profits and file accounts with the Irish Revenue Commissioners.

- All Irish incorporated companies (whether Irish resident for tax purposes or not) must file certain information with the Revenue Commissioners, including:-

  - name
  - registered office
  - nature of the business and
  - relevant tax residency.

- The tax year for Irish tax resident companies follows the company's accounting period.

- A company must make two preliminary payments of tax totalling 90% of its total tax liability for the year, as well as a final payment of tax upon filing its tax return. The first payment of preliminary tax is based on the estimated income of the company and must be made in the month preceding the year-end of the company.

- From 2006, a company will be required only to make a single payment of preliminary tax in the month preceding the year-end of the company.

- These preliminary tax requirements also apply to branch operations in Ireland.

- The standard CT rate is 12.5% on trading income earned by an Irish resident company. However, where the trading activity of the company is carried on wholly outside of Ireland, a 25% CT rate may apply to income earned from that trade. Similarly, passive investment income earned by an Irish resident company is generally taxed at the higher rate of 25%.

- For many years, manufacturing and other designated industries have qualified for a favourable CT rate of 10% on their trading profits. While this 10% rate is not available for new companies establishing in Ireland,

TAXATION

it will continue to apply to companies that have already qualified for the favourable rate until:-

- 31 December 2010 in the case of manufacturing profits and
- 31 December 2005 in the case of IFSC and Shannon-based profits.

Thereafter, the CT rate of 12.5% will apply.

- Ireland is party to 43 double taxation treaties. A further 8 new treaties and 3 existing treaties are currently being negotiated.

- Ireland imposes withholding tax on dividends and interest at the standard rate of income tax, currently 20%. However, exemption from withholding taxes will generally apply where the dividends or interest are paid to a resident of a jurisdiction with which Ireland has a tax treaty or to a resident of an EU Member State. These exemptions apply notwithstanding that the applicable tax treaty may allow withholding tax to be applied.

- An Irish tax-resident company will not be liable to any Irish CT on dividends received from another Irish tax-resident company.

- Capital Gains Tax is payable on chargeable capital gains at a rate of 20%.

- Value Added Tax (VAT) is a consumer charge on goods and services. The current rates range from 0% to 21%.

- Stamp Duty is payable on certain documented transactions, especially property transactions. The rates vary between 0% and 9% and are dependent on the category of transaction, the nature of the assets transferred and the amount involved.

- Goods imported into Ireland which originated outside the EU may be liable to tariffs. The classification and valuation of imported goods is governed by various international agreements between the EU and the relevant countries.

- Payroll and social insurance taxes on both employers and employees are among the lowest in the EU.

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SOLICITORS

TAXATION

- Ireland also provides, or is in the process of enacting legislation that will provide, the following incentives for locating R&D functions in Ireland:-

  - exemption from CT for patent royalty income earned by an Irish resident company
  - Tax Credit for incremental R&D expenditure and
  - Stamp Duty exemption on transfers of intellectual property.

- In the 2004 Finance Act the Irish government introduced a new incentive package designed to increase the attractiveness of Ireland as a holding company jurisdiction. Under these new provisions, disposals of substantial shareholdings in certain subsidiary companies are exempted from Irish capital gains tax provided that certain criteria are met. Significant tax credit benefits have also been introduced for dividends received from subsidiary companies.

PROPERTY

Buying or Leasing

- It is most common to acquire an interest in a property by buying it outright, leasing it, or buying the remainder of the term of an existing lease.

- Depending on the nature of the interest, the owner will have different rights and duties in relation to the land. It is not unusual that one piece of land may have several interests of different kinds, owned by different people at the same time, eg. a landlord, a tenant and a sub-tenant.

- Ireland operates a land registration system where a person's interest in property is registered on a public register. In certain cases, this ensures that an owner's interest in property is documented and protected (by a State guarantee).

- The maxim *caveat emptor* (*"let the buyer beware"*), applies to property. It is important to consult a solicitor as soon as a suitable property has been identified. In the case of an existing building, a surveyor or engineer should inspect the building at an early stage to ensure it is free from costly defects.

- To sell a property, the parties enter into a detailed written contract to transfer the interest in the property from the seller to the buyer. Before this is signed, the solicitor for the buyer will investigate the title and the planning status of the property to ensure that it is in order. Any problems with the title generally follow the property and so become the responsibility of the buyer, including any pre-existing capital tax liabilities, environmental, secured liabilities or planning problems.

- If a financial institution is providing finance for the purchase of a commercial property, the property itself will usually be the security for the loan. The financial institution will occasionally require that its own solicitor checks the title to the property, but will often rely on the opinion of the purchaser's solicitor.

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PROPERTY

- There is usually a deposit of 10% paid on the signing of the contract. The balance is paid on completion which usually takes place a short period later.

- When buying property, the buyer pays a once-off tax known as Stamp Duty (between 0% and 9% of the purchase price, depending on the nature of the buyer and the value of the property).

- There is no restriction on a non-national purchasing or leasing property.

Planning Permission

- Planning permission is required before an owner can develop buildings or land, or materially change their existing use. Applications are made to the local planning authority.

- Before an owner applies for planning permission he/she must publish his/her intention to do so in a newspaper which has a circulation in the same district as the relevant property. He/she must also place a notice on the property stating the nature of the proposed development.

- An initial application must be accompanied by prescribed plans, drawings and maps of the proposed development. The planning authority may look for further details from the applicant.

- Objections from members of the public may be submitted in writing before the decision is made.

- A planning authority may grant permission unconditionally, or subject to conditions, or it may refuse permission. This decision must generally be made within eight weeks of the completed submission.

- The applicant or any member of the public (provided they make written submissions or observations at the initial planning application stage) may appeal a planning decision to An Bord Pleanála (The Planning Board) within 4 weeks of the

PROPERTY

decision. Any party to an appeal may request a public oral hearing, but the Board has discretion whether to hold such a hearing.

- Planning permission generally expires if it is not implemented within five years.

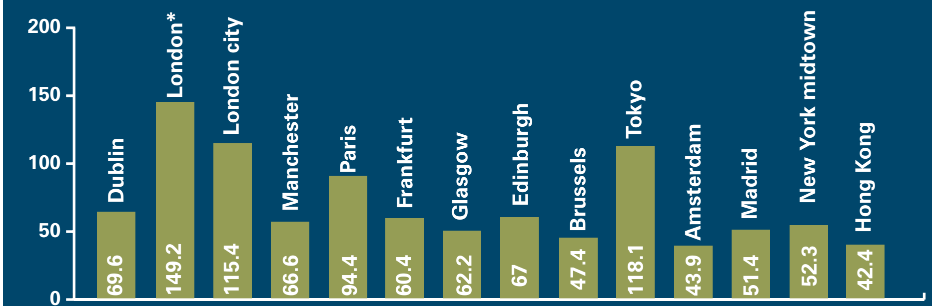
Commercial Leases

- The rent payable for offices in Ireland is quoted on a net basis, i.e. rent quoted per square foot or square metre will exclude toilets, columns, radiators, etc. Several other European countries measure on a gross basis.

- In practice, commercial leases are most commonly granted for a term of 25 years. There is no automatic right to "break" the lease, although this is a matter for negotiation between the landlord and the tenant.

- Rent reviews normally occur at five yearly intervals and generally result in an increase in rent. Many leases provide for "upward only" reviews of rent.

Comparative total office occupation costs (US$) per annum per square foot



*London West End

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PROPERTY

- A once-off tax, known as Stamp Duty, is payable on the creation of a lease, it is calculated as a percentage of the annual rent. The rates vary as follows:

Lease Term	**Rate of Duty**
Up to 35 years	1%
35-100 years	6%
Over 100 years	12%

- The occupier is liable for municipal rates.
- There may be a VAT charge on the creation of a new lease or on disposal of an existing lease. This is usually paid by the lessee/tenant.

ENVIRONMENTAL, ENERGY AND WASTE LAW

Environmental

- If a proposed development is likely to affect the environment in a significant way, the planning authority will require an Environmental Impact Statement (EIS) to be submitted prior to the granting of any planning approval.

- Depending on the industry involved, a development may also require a pollution control licence from the Environmental Protection Agency (EPA). The EPA operates a single licensing system for a wide range of activities in order to control air, water and noise pollution and waste generation.

- Local planning authorities also monitor compliance with environmental regulations in conjunction with the EPA. Local authorities have pollution control responsibility for lighter industries.

Energy

- Ireland, in accordance with its obligations under EU law, has been progressively deregulating its electricity and gas markets and has established the Commission for Energy Regulation (CER) to oversee such deregulation, to promote competition in the sector and to licence all participants in the market.

- To date the deregulation process has seen the separation of the generation, transmission and supply activities of the State owned power utility, the ESB, into separate entities and the opening up to independent power companies of the market to supply most large commercial customers.

- The increased economic activity in Ireland and the deregulation process has heightened the need for new independent generation capacity and to attract new entrants. As the ESB has been restricted from providing any new generation capacity, new independent generators have entered

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ENVIRONMENTAL, ENERGY AND WASTE LAW

the market and many more are actively engaged in assessing the opportunities to access an expanding market.

- Full market liberalisation will see access to compete in the market to supply all customers opened up to independent power companies from 19 February 2005 and the commencement of a mandatory centralised electricity market from 19 February 2006 where all generators and all suppliers will trade electricity.

- Although reliant on thermal power plants, Ireland's prime location for both on-shore and off-shore windpower together with key policy initiatives has led to a significant increase in windpower generation and commencement of construction of possibly the world's largest offshore windplant.

Waste

- Ireland has traditionally relied heavily on landfill. With increased economic activity (and related waste generation) in recent years waste management has become one of the most challenging areas of environmental management in Ireland. Ireland's waste management system has undergone radical reform in recent years.

- EU waste policy, including the EU waste hierarchy, is being implemented in Ireland through regional waste management plans which local authorities are required to make. These strategic plans set objectives for the prevention, movement, disposal and recovery of waste, as well as planning for improved infrastructure to deal with expected types and quantities of waste.

- Other important features of the Irish waste management system include "producer responsibility" (take-back obligations for producers of specified products and related wastes); a comprehensive licensing and permitting system operated by local authorities and the EPA for waste facilities; and the introduction of the

Polluter Pays Principle in many areas of waste control. A good example of the latter was the introduction of an environmental tax of €0.15 for every plastic shopping bag and this has been a resounding success.

- While recent years have seen much tighter regulation of all aspects of waste management they have also brought opportunities in the waste sector to industry and business. One effect of the regulation of waste management and the imposition of waste charges has been the creation of markets for waste and waste services. Many of the regional waste management plans envisage the provision of waste services and facilities on a partnership basis with the private sector or, alternatively, are open to the provision of such services exclusively by the private sector.

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EMPLOYMENT LAW

Employment Issues

- Since 1987 successive social partnership agreements between the government, trade unions and the corporate sector have ensured stability in the labour market.

- The current partnership agreement, "Sustaining Progress Programme" which is the sixth such agreement, will run until March 2006, and provides for salary increases over the period of the Programme of 7%. The Programme was reached by consensus.

- Employers are not obliged to participate in the Programme, although its pay provisions are widely regarded as benchmarks for annual increases. The annual rate of inflation is declining (1.7% at time of publication) and is now well below the level at the time the Programme was agreed. It is anticipated that future increases will be lower.

- The national minimum wage has been set at €7.00 per hour from 1 February 2004.

- Every employee has the right to join a trade union. However, trade union membership is not compulsory and most international companies that have located in Ireland are not unionised. In general, industrial relations are governed by voluntary codes of conduct rather than rigid legislation.

- Employment law is increasingly derived from EU Directives. However, Ireland still has its own unique domestic law which is based on legislation and decisions of the courts.

- Employees have a considerable degree of protection under Irish law, the most important being:-

  - protection against unfair dismissal
  - a right to minimum notice on termination (from one weeks notice for employees with less than 2 years service to eight weeks notice for employees with more than 15 years service)

EMPLOYMENT LAW

  - minimum holidays (20 working days and 9 Public Holidays)
  - protection against discrimination on grounds such as race, sex, family status or religious belief
  - maternity leave of 26 weeks (18 weeks funded by the State and an option to take a further 8 weeks unpaid)
  - parental leave, (14 weeks unpaid) in limited circumstances and
  - a right to a written statement of the basic terms of his/her employment.

- Employees are often required to complete an initial probationary period, of up to 12 months, during which their employment may be terminated at any time without cause, apart from termination due to discrimination.

- Generally, a single employee is not taxed if he/she earns approximately €200 per week or less. This amount differs for a married employee depending on whether his/her spouse works.

- Employee's income tax is deducted at source under the PAYE system. Both the employer and employee make PRSI (Pay Related Social Insurance) contributions.

- Restraint of trade covenants for senior employees are often included in employment contracts but they are normally interpreted narrowly and are difficult to enforce, especially in the period after termination of employment. The concept of "garden leave" is well established and accepted in the commercial sector in Ireland.

- A range of attractive share incentive schemes can be implemented to incentivise employees in a tax efficient manner. Some of these plans are subject to the approval of the Revenue Commissioners.

- With effect from March 2008, businesses employing at least 50 employees in Ireland will be required to provide information about certain business developments and

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EMPLOYMENT LAW

to consult with employee representative groups, called work councils.

Agents & Distributors

- Many overseas companies use a resale channel to sell their goods and/or services in Ireland.

- There are a number of important distinctions between an agent and a distributor in Irish law. While there is no codified definition of an agent, and regardless of the nominal title used in any agreement, the Irish Courts will look at certain criteria in deciding whether a reseller is an agent. These criteria include:-

  - level of risk (in terms of ownership of goods and credit risk) assumed by the reseller
  - level of control exercised over activities of the reseller and
  - control of the price of goods/services.

- The EU Commercial Agents Directive applies to all agents who are based and sell goods in the EU, regardless of the location of the principal. This Directive sets out a number of important obligations for companies using agents to sell goods (it does not apply to the sale of services) in the EU. Notably, the agent has the right to receive compensation in certain circumstances if the agency is terminated. It is not possible to contract out of a number of obligations under the Directive.

- Distribution agreements are subject to both EU and Irish competition law restraints. If a distribution agreement does not comply with the relevant competition law regime, it may be unenforceable. It is generally advisable to consult with a specialist solicitor while negotiating and before finalising any distribution or agency agreement, and even standard-form agreements should be checked to ensure their enforceability.

E-COMMERCE & INTELLECTUAL PROPERTY

E-Commerce

- The Irish government has stated that it is a priority to make Ireland a global centre for e-commerce. The Digital Hub is an initiative by the government to create an international digital enterprise area in Dublin City. The flagship project for the Digital Hub is Media Lab Europe, an alliance between the Irish government and the Media Lab at MIT, Boston, which is located and operating in the Digital Hub.

- The telecommunications market is completely liberalised in Ireland. The sector is regulated by ComReg.

- Ireland's international connectivity is substantial. There is more than a terabit of state of the art broadband capacity linking Ireland to over 32 cities in Europe, to the USA and the Asia Pacific region.

- Ireland has passed the Electronic Commerce Act, 2000 and was one of the first countries in the EU to pass such legislation. The Electronic Commerce Act, 2000 provides for:-

  - legal recognition of electronic signatures
  - use of electronic contracts in commercial and non-commercial dealings
  - prohibition of fraudulent use of electronic signatures
  - registration of domain names and
  - accreditation and supervision of service providers.

- Unlike other jurisdictions, the right to privacy of the user has been protected in that the user cannot be compelled to hand over the code/key to any encrypted data to any party, including the police.

- The issue of data privacy for individuals is governed primarily by the Data Protection Acts, 1988 to 2003. Businesses that hold and/or process certain categories of personal data are required to register with the Office of the Data Protection Commissioner.

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E-COMMERCE & INTELLECTUAL PROPERTY

IPR

- As the world's largest exporter of software, Ireland places great importance on software protection and licensing.

- Software is protected by copyright law and to a certain extent, by patent law. Computer programs are treated as literary works under Irish law. Databases are granted copyright and/or other forms of protection under Irish law.

- The presumption is that copyright subsists in an original work unless the contrary is proven.However, as copyright protects the expression of the idea rather than the idea itself, the concept behind the work is not protected.

- The owner/exclusive licensee will be presumed to be that person named on the work.

- The Courts will often order the seizure of alleged pirated materials on short notice until the matter has been resolved through the Courts.

- Penalties for those who infringe the copyright of another are substantial. In certain instances, the penalties involve a fine of up to €127,000 and/or five years in prison. Certain activities have been deemed by law to be infringements of software copyright including:-

  - possession of an infringing copy of a software package, knowing it to be so and
  - circulating an infringing copy of a software package, knowing it to be so.

- Employers generally own the copyright in works developed by their employees where the works were developed in the course of their employment. However, a contractor who develops software will own the copyright in the absence of agreement to the contrary. Therefore, a company funding the development of software should formally clarify where the copyright will vest from the outset.

E-COMMERCE & INTELLECTUAL PROPERTY

- There are two separate categories of patent that may be registered in Ireland - long term and short-term patents. The long-term patent is valid for 20 years and is easier to protect. The short-term patent is valid for ten years, is quicker to process but is more difficult to enforce.

- Ireland is party to a number of international patent conventions including the European Patent Convention. A patent registered in the EU Patent Office in Munich under this Convention will be recognised in the 19 party states.

- Trade marks can be registered with the Irish Patents Office or the European Union Trade Marks Office (OHIM) in Spain. International regulations can also be obtained pursuant to the Madrid Protocol. Registering a trade mark with the Irish Patents Office is less expensive and is valid for 10 years unless it is renewed. An EU trade mark is also valid for 10 years and is recognised in all EU Member States.

- There is no requirement that a person applying for a patent should be Irish resident or an Irish national.

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THE INTERNATIONAL FINANCIAL SERVICES CENTRE (IFSC)

IFSC

- The International Financial Services Centre (IFSC) in Central Dublin has successfully developed as a centre for a broad range of international financial services. Over 800 licences have been issued to businesses operating there, and these licensed businesses, who were approved to operate in the IFSC on or before 31 July 1998, continue to benefit from a 10% CT Rate until 31 December 2005. It is no longer necessary to secure a licence to operate a business from the IFSC.

- The Irish government has agreed with the EU to phase out the specific reliefs available to IFSC companies in exchange for the agreement to the introduction of the standard 12.5% CT rate on the trading income of all Irish resident companies.

- The activities carried out in the IFSC are:-

  - banking and asset finance
  - treasury management
  - leasing
  - insurance and reinsurance
  - investment funds and fund management
  - administration and custody for investment funds and
  - securities trading.

- Following the expiry of the period covered by an IFSC company's tax certificate (i.e. on 1 January 2006), that company will become subject to tax at the 12.5% rate on trading income.

- It is possible to acquire an existing IFSC business subject to appropriate regulatory and fiscal clearances.

- The change in the IFSC regime will not prejudice the promotion of investment funds which are, generally speaking, not subject to Irish taxes. Furthermore, Irish investors can now invest in such funds without compromising the tax-exempt status of such funds.

- Managers and promoters have been attracted to Dublin because of the existence of a highly competitive

THE INTERNATIONAL FINANCIAL SERVICES CENTRE (IFSC)

marketplace for service provision. Over 250 fund promoters have Dublin based funds as part of their distribution strategy, including many of the world's most significant players.

- As at 30 September 2003, the level of net assets under management by authorised collective investment schemes was €337.7 billion represented by 3,483 funds including sub-funds.

- The Irish Financial Services Regulatory Authority (IFSRA) is the regulator of the funds industry in Ireland. The regulatory environment in Ireland is considered to be open and there are a number of specific joint committees including IFSRA and industry representatives, who act in an advisory role to government on various issues arising in the sector from time to time.

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BUSINESS ENVIRONMENT

Banking, Insurance & Finance

- The banking and insurance sectors are regulated by the Irish Financial Services Regulatory Authority (IFSRA).

- There are 79 licensed banks operating in Ireland, most of which have operations in Dublin's International Financial Services Centre. There are five clearing banks.

- A banking establishment is required to obtain a licence from IFSRA prior to its operation within the country.

- A bank that is licensed in an EU Member State is entitled to establish in Ireland, subject to notification to IFSRA. Similarly, a bank which is licensed by IFSRA, in effect has a "banking passport" and can establish operations in other EU member states, subject to notification to the appropriate authorities.

- There are approximately 200 licensed insurance companies operating in Ireland in the life and non-life sectors. Insurance companies which are licensed in an EU member state are also entitled to establish operations in Ireland, and there is also the facility to passport insurance services throughout the EU, subject to certain restrictions and notifications. Many of the 200 licensed insurance operators are headquartered in Ireland and avail of the passport provisions of the EU Third Insurance Directives to sell insurance into other EEA (European Economic Area) countries without the need for further local regulatory approval.

- There are also a significant number of reinsurance companies headquartered in Dublin. Currently, the reinsurance industry is largely unregulated, though enabling legislation does exist to permit the government to introduce a greater degree of regulation in the future.

- There are no exchange controls in Ireland.

- The Criminal Justice Act 1994 obliges financial institutions to ensure that any funds received by them are not the product of any illegal activity. Irish financial institutions and financial service providers must comply with certain money-laundering controls, which are similar to those in force in Western Europe and the US.

- IFSRA is subject to statutory confidentiality obligations.

Stock Market

- There has been a stock exchange in Dublin for more than 200 years. It is regulated by IFSRA and the Listing Rules published by The Irish Stock Exchange provide the parameters within which an Irish listed company must operate. The Listing Rules and the Irish Takeover Panel Rules are similar to the corresponding rules prevailing in the United Kingdom.

- The Irish Stock Exchange comprises of four markets – the Official List; the Exploration Securities Market; the Developing Companies Market (DCM)and there is also a separate market for technology companies called the ITEQ.

- Companies seeking an official listing on The Irish Stock Exchange must have:-

  - a minimum market value of shares to be listed of €889,000
  - 25% of the stock held by the public and
  - generally been trading for a three-year period prior to listing.

- Shares quoted on both The London and The Irish Stock Exchanges may be dealt on both Exchanges.

- The prices of shares listed on The Irish Stock Exchange are quoted in euro (€).

- There is no restriction on non-nationals owning shares listed on The Irish Stock Exchange.

- The acquisition of Irish listed companies is regulated by the Irish Takeover Panel, which administers the Irish Takeover Panel Act 1997 Takeover Rules. Unlike the position in the UK, these Rules have statutory force.

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BUSINESS ENVIRONMENT

Infrastructure

- Dublin has direct access to 60 cities by air with over 600 international flights per day in and out of Dublin. There are approximately 70 daily flights from Dublin to London. In addition to 4 international and 6 regional airports, Ireland has 4 major freight ports and 3 car ferry terminals.

- As part of the National Development Plan, the government is co-ordinating the largest-ever investment in transport in the State. There is a comprehensive road building plan on-going at present, including a tunnel under the city to Dublin Port for freight traffic and an extension of the motorway network. There is also work underway on the LUAS, an over-ground light railway commuter system for Dublin.

- Over the past three decades, successive Irish governments have consistently adopted policies to encourage and facilitate international business.

- There is a very close working relationship between the various government agencies and the private sector which results in a high degree of flexibility and openness between the parties.

- Ireland is a party to the Kyoto Convention of the World Customs Organisation and is an active participant in the WTO.

- There is more than a terabit of broadband capacity from Ireland to Europe, the US and the Asia Pacific region.

LIVING & WORKING IN IRELAND

General

- Rental accommodation, in houses and apartments, is widely available. There are many specialist agencies that deal with securing suitable accommodation throughout the country.

- Ireland has the highest rate of home ownership in Europe. There is no restriction on the ownership or leasing of private residential accommodation by non-nationals.

- Non EU-residents on secondment in Ireland are obliged to pay customs duty and Value Added Tax (VAT) on the personal belongings that they bring with them. However, various overseas companies have negotiated an arrangement whereby an amount of goods up to a certain weight limit may be brought into the country tax-free. The Revenue Commissioners will consider the length of the proposed stay and the relevant family size.

- An international driving permit or a full foreign driving licence is valid in Ireland for twelve months. It is possible to exchange your licence for an Irish licence, without taking a driving test, if an EU Member State or a specified country has issued your licence. The local municipality is responsible for issuing drivers' licences.

- A motor vehicle, trailer, yacht or mobile home must be reported to the Revenue Commissioners prior to its importation unless the individual has been in possession of the item for a period of six months or more.

Residence & Work Permits

- In terms of the permits required, Ireland distinguishes between non-EU nationals who wish to work in the country and those who simply wish to reside in the country. Non-EU nationals who wish to work in the country must obtain a work permit and people wishing only to stay in the country must obtain a

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residence permit. Work permits are readily available to specialist and management personnel.

- The Department of Enterprise, Trade & Employment (DETE) deals with work permits. All other relevant matters are generally dealt with by the Department of Justice.

- All visitors, except UK nationals, must register with the local police (Gardaí) if they intend to remain in the country for a period exceeding 90 days. The Gardaí will issue a Police Registration Certificate. This must be obtained prior to the elapse of the 90 day period.

- All non-residents, except UK nationals, remaining in the country for a period exceeding 90 days must hold:-

  - a work or residence permit and
  - a Police Registration Certificate.

EU Nationals

- EU law provides that any national of an EU Member State may work in another Member State without a work permit, visa or other equivalent document.

- However, if an EU national wishes to remain in Ireland for a period exceeding 90 days he/she must obtain a residence permit from the Department of Justice which is valid for up to five years.

Non-EU Nationals

- Nationals of certain countries require visas prior to entry into Ireland - details are available from any Irish Embassy. This requirement does not apply to US nationals.

- Nationals of countries that do not require a visa prior to entry may stay in Ireland for a period of up to 90 days without a residence permit.

LIVING & WORKING IN IRELAND

- If a non-EU national wishes to work in Ireland, the employer must apply to the DETE to obtain a work permit. Any work permit granted will be specific to that employer. Such an application must include details of the individual and the position which is to be filled. The employer must also prove that due to the lack of necessary skills or relevant experience, an Irish or EU national cannot fill the position.

- It is preferable to secure a work permit prior to arrival in the country. However, the 90 day grace period may be used to secure the necessary residence permits. Spouses and children over 16 will have to obtain residence permits to remain in the country.

- The government has introduced a "fast-track" procedure for non-EU nationals who are qualified:-

  - in the IT sector
  - as nurses and
  - as professional construction workers (such as architects, engineers, etc.)

- An applicant for a work authorisation under this scheme must apply outside Ireland and secure a letter of offer from an Irish employer which they must then present to their nearest Irish Embassy or Consulate for processing.

- A work authorisation may be granted for a period of up to 2 years and may be renewed. The residence permit is usually issued for a 12 month period, after which time it can be renewed by application to the DETE.

Business Permission

- The European Economic Area (EEA) is comprised of the Member States of the EU plus Iceland, Liechtenstein and Norway. Any non-EEA national who wishes to pursue a business activity in a capacity other than as an employee must first obtain Business Permission from the Minister for Justice. There are some limited exceptions to this requirement.

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- In order to obtain Business Permission the following criteria must be met:-

  - the proposed business must result in the transfer to Ireland of capital in the minimum sum of €381,000
  - the proposed business must create employment for at least 2 EEA nationals for a new project, or at least maintain levels of employment in an existing business
  - the proposed business should, where possible, substitute Irish goods for goods that would otherwise be imported
  - the proposed business must be a viable trading concern to support the applicant and any dependents and
  - the applicant must be in possession of valid identity documents and be of good character.

Bank Accounts

- A non-resident may hold a bank account or credit card with an Irish bank.

- It will be necessary to produce photo identification, an Irish utility bill indicating the name and address of the applicant and/or a letter from an employer stating the term and a description of employment.

- A standard current account includes a chequebook, cheque guarantee card, direct debit card and an ATM card. There is no restriction on the issuing of an Irish credit card to a non-resident, subject to the usual credit criteria of the bank.

Medical Insurance

- Eight regional health boards operate public health services in Ireland.

- Urgent public hospital services are essentially free to all EU nationals who hold a form E111.

- It is advisable to take out private health care insurance. Employees receive an income tax allowance on contributions made to a private health insurer.

Tax for Employees

- Non-Irish nationals coming to work in Ireland should consult a taxation specialist before taking up any position in Ireland.

- Ireland's remittance basis of taxation for non-domiciled and non-ordinarily resident individuals can provide significant tax benefits to foreign nationals who are transferred to a foreign company's Irish operations. Professional advice should be sought in structuring these arrangements.

- The Irish tax system is "Pay As You Earn" (PAYE) for employees and Self-Assessment for self-employed individuals, including directors.

- The tax year runs from 1 January each year.

- It is necessary to register with the Revenue Commissioners at the start of a secondment. An individual who has been resident in Ireland for three years is taxed as an Irish resident from the beginning of the fourth tax year.

- An individual will be resident in Ireland for a given tax year if:-

  - he/she is present for 183 days or more in Ireland in that tax year or
  - he/she is present for 280 days in Ireland, combining the number of days spent in Ireland in that tax year and in the preceding tax year, provided that more than 30 days have been spent in Ireland during the relevant tax year.

- Individuals who are on secondment in Ireland for a period of less than three years will only be liable to Irish Income Tax on Irish and UK sourced income. Any non-Irish and non-UK sourced income or gains will only be taxable to the extent that such income or gains are brought into Ireland. For this to apply, the employer must not be Irish resident.

- A non-resident employee is advised to open two bank accounts:-

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- an Irish account for Irish taxable income and gains and
- an account outside Ireland to receive non-Irish and non-UK sourced income and gains.

- A company car, preferential loan, or accommodation provided by an employer will subject the taxpayer to an Income Tax liability as they are considered a "benefit-in-kind".

- Any income from real property (i.e. land/house) situated in the country will be subject to Irish tax regardless of the tax residency of the individual.

Schools

- The Irish education system is one of the most highly regarded in Europe. The percentage of second level students that continue their education to third level is the highest in the EU.

- There is a mix of religious, private and State schools at all levels. However, the curriculum is national and very structured.

- There is no State-sponsored system for pre-school age children. Many creches (day care centres) and registered child care workers operate throughout the state. Childcare payments are not tax deductible.

- First-level education is carried out at primary school. The programme is 8 years in duration. Pupils generally attend from the ages of 4 to12.

- Second-level education is 5 to 6 years in duration, and generally culminates in a final examination called the Leaving Certificate.

- A pupil's Leaving Certificate will determine the university place which will ultimately be offered.

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- Ireland has numerous universities and institutes. Each university decides on an application from a non-national on its own merits. In the case of a US applicant, SAT scores and High School Diplomas will be relevant. In the case of a UK applicant, the A-levels results will be relevant. For French applicants, the Baccalaureate will be relevant and for German applicants the Abitur will be relevant.

- The curriculum for the international Baccalaureate examination is taught in one school in Dublin. There is also a German school in Dublin and a Japanese boarding school close by in County Kildare.

Ireland - Social

- Ireland is famed for its unspoilt natural beauty and spectacular scenery. The mountains, rivers and ocean are easily accessible from anywhere in the country and the quality of life in Ireland is extremely high.

- The cosmopolitan atmosphere of Ireland, with its many restaurants, pubs, cafes, clubs, galleries and shopping areas, attract over 5,000,000 overseas visitors every year, and the Irish are famously welcoming to visitors - both long and short term.

- Sport is very important to the Irish. Ireland has many world-renowned golf courses and golf links as well as a strong bloodstock and horse racing industry. Coarse and fly-fishing and sea angling, hill-walking and sailing are also very popular.

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- As the land where Wilde, Shaw, Beckett, Swift, Yeats, Joyce and O'Casey all practised their craft, Ireland has a great literary heritage. Theatres and bookshops are commonplace in Irish towns and cities.

- The national sports are Gaelic football and hurling. Both are field games, played by teams of fifteen. Other field games such as soccer and rugby are also popular.

William Fry
SOLICITORS

FURTHER INFORMATION

For Further Information on any of the topics covered, please contact:

Owen O'Connell
Managing Partner
Tel: +353 1 639 5121
E-mail: owen.oconnell@williamfry.ie

Brendan Cahill
William Fry Inward Investment
Tel: +353 1 639 5181
E-mail: brendan.cahill@williamfry.ie

Dan Morrissey
William Fry Investment Funds
Tel: +353 1 639 5221
E-mail: dan.morrissey@williamfry.ie

Nora White
William Fry Property
Tel: +353 1 639 5303
E-mail: nora.white@williamfry.ie

Martin Phelan
William Fry Tax Advisers
Tel: +353 1 639 5139
E-mail: martin.phelan@williamfry.ie

Owen O'Sullivan
William Fry Litigation
Tel: +353 1 639 5369
E-mail: owen.osullivan@williamfry.ie

Myra Garrett
William Fry Technology
Tel: +353 1 639 5123
E-mail: myra.garrett@williamfry.ie

Boyce Shubotham
William Fry Employment Law
Tel: +353 1 639 5363
E-mail: boyce.shubotham@williamfry.ie

John Larkin
William Fry Insurance
Tel: +353 1 639 5225
E-mail: john.larkin@williamfry.ie

John Handoll
William Fry Competition & Regulation
Tel: +353 1 639 5115
E-mail: john.handoll@williamfry.ie

Author:
June O'Connell
Tel: +353 1 639 5131
E-mail: june.oconnell@williamfry.ie

William Fry
SOLICITORS

FURTHER INFORMATION

Useful website links:

- **William Fry Solicitors and William Fry Tax Advisers** (www.williamfry.ie)
- **Ask Ireland: the Irish government's comprehensive international directory on Ireland** (www.askireland.com)
- **IDA: Industrial Development Authority** (www.ida.ie)
- **Government of Ireland** (www.irlgov.ie)
- **Science Foundation Ireland: Fundraising Researches and research teams in Ireland in biotechnology and information and communications technology** (www.sfi.ie)
- **Central Statistics Office: government agency responsible for collecting, analysing statistical information including statistics on demography, external trade, industry, earnings, labour and prices** (www.cso.ie)
- **Finfacts: An Irish financial information portal** (www.finfacts.ie)
- **ComReg: The statutory body responsible for electronic communications sector** (www.comreg.ie).
- **Data Protection Commissioner:** (www.dataprivacy.ie).
- **Enterprise Ireland: Responsibility for assisting overseas inward investment in Food, Drink & Timber sectors** (www.enterpriseireland.com)
- **The Commission for Electricity Regulation is the regulator of electricity generation and distribution markets** (www.cer.ie)
- **The Environmental Protection Agency is the principal regulator in the areas of waste and pollution control.** (www.epa.ie)
- **The Irish Financial Services Regulatory Authority is the regulator of the financial services sector** (www.ifsra.ie)
- **FÁS – Irish Industrial Recruitment and Training Services** (www.fas.ie)