



**BILLE NA dTITHE (FORALACHA ILGHNEITHEACHA), 1979
HOUSING (MISCELLANEOUS PROVISIONS) BILL, 1979**

*Mar a tionscnaíodh
As initiated*

EXPLANATORY MEMORANDUM

The main purpose of the Bill is to validate changes made since 1972 in schemes of housing grants, loans and subsidies for which the Minister for the Environment is the appropriate Minister. The Bill will facilitate changes which may prove appropriate in these schemes of financial assistance in the future without the need for frequent recourse to amending legislation relating to detailed changes in the schemes. The Bill will also strengthen the present statutory basis for certifying reasonable value in respect of the prices of new houses and flats. It will provide for a new optional arrangement for pre-sale structural works to local authority houses and will enable certain lands owned by the Minister for Health to be transferred—principally for use for public housing purposes. It will give more flexibility to housing authorities in allocating their houses, empower the Minister to direct a housing authority to sell or not to sell houses of a specified class and provide for changes of a technical nature required in existing housing and building society legislation.

1. *Section 1* is the interpretation section.

“Certificate of reasonable value” will mean a certificate granted under *section 18* which provides a strengthened statutory framework for the control of new house prices.

The definition of “house” is based on the definition in *section 2 (1)* of the Housing Act, 1966.

Section 21 of the 1966 Act contained a definition of “reconstruction” for the purposes of *sections 21* and *22* of that Act. Those sections will be repealed by *section 22*. *Section 1* contains a definition of “improvement works”. This wider definition is necessary because of the introduction of the improvement grants scheme with effect from 1st November, 1977, which embraces both “reconstruction” works and the provision in a house of water and sewerage facilities (previously dealt with in the Local Government (Sanitary Services) Act, 1962).

Various financial contributions by the State and by housing authorities, involving annual payments (e.g. *sections 9-12*), have been referred to as “subsidies” throughout the Bill. A reference to a “grant”, “loan” or “contribution” in the Principal Act (the 1966 Act, as amended) will be construed, therefore, as including a reference to a “grant”, “loan” or “subsidy”.

The Bill does not provide for any alteration in the definitions of “housing authority” and “person”, contained in *section 2 (1)* of the 1966 Act.

“Housing authority” normally means the county council, county borough corporation, borough corporation or urban district council for the functional area in which a house is situated. Town commissioners may exercise the function of a housing authority for purposes other than the payment of grants and loans for houses in their areas. The latter housing functions are normally discharged by county councils.

The Interpretation Act, 1937, provides that the word "person" shall, unless the contrary intention appears, be construed as including a body corporate (a corporation aggregate or a corporation sole) and an unincorporated body of persons as well as an individual. In this Bill, however, "person" includes a housing authority only in *section 5*.

2. Pilot exercises in the devolution of housing grants were undertaken in County Meath (in respect of new houses) with effect from 14th May, 1973, and in Counties Longford and Westmeath (in respect of reconstruction work and the installation of private water and sewerage facilities in individual houses) with effect from 1st August, 1973. These arrangements were terminated as a consequence of the new grant schemes in respect of new houses and house improvements introduced with effect from 6th July, 1977, and 1st November, 1977, respectively.

Section 2 provides a statutory basis for the devolution by the Minister of the future administration of housing grants schemes, subject to such regulations as may be made. *Subsection (4)* will validate the pilot exercises already undertaken.

3. *Section 3* provides for the making of a grant by the Minister towards the administration and general expenses of an approved body which represents, or promotes the formation of, co-operative housing groups or voluntary housing associations. This section will validate the payment of a grant to the National Association of Building Co-operatives in respect of expenses incurred by that body in 1979.

4. A scheme of new house grants of £1,000 for first-time owner-occupiers of new houses or flats was introduced on 6th July, 1977. The grant is payable to the purchaser of a new dwelling who enters into a contract to purchase on or after 27th May, 1977, or, in the case of a person constructing his own house, where the foundations were completed on or after that date. *Section 4* provides the statutory basis for this scheme of grants and will enable the amount of the grant and conditions relating to the grant to be varied by regulations in future. It will also empower the Minister to determine technical standards for houses qualifying for the grants. The section replaces sections 15, 16 and 18 of the 1966 Act (amended by sections 2, 3, 4 and 8 of the 1970 Act) which are repealed by *section 22*. The section will validate the operation of the new grant scheme from 6th July, 1977.

5. *Section 5* provides the statutory basis for the new scheme of improvement grants which was introduced as from 1st November, 1977. It will allow the maximum amount of the improvement grant and conditions relating to the payment of the grant to be varied by regulations in future. The section will also enable the Minister to determine technical standards for the improvement of houses. Grants for the installation of water and sewerage facilities, previously payable under the Local Government (Sanitary Services) Act, 1962, will be paid under this section in future. The section replaces section 2 of the 1962 Act and sections 21, 22, 23, 24 and 25 of the 1966 Act which are repealed by *section 22*.

Subsection (4) validates changes since 1st June, 1972, in the schemes of reconstruction/improvement grants payable by the Minister, as follows:—

(a) The maximum reconstruction grant was increased from a range of £100 to £140 (depending on the number of rooms in the house) to £200 in cases where work commenced on or after 1st June, 1972. The revised rate applied irrespective of the number of rooms in a house.

(b) A scheme of grants for the provision of solid fuel burning appliances in houses without such appliances was introduced with effect from 16th October, 1974.

(c) A new improvement grants scheme was introduced and the maximum rate of improvement grant payable by the Minister was increased to £600 or two-thirds of the cost of the work, whichever is the less, in respect of works commenced on or after 1st November, 1977. Improvement grants are payable with effect from that date only in respect of works estimated to cost at least £100 and are confined to houses which, on completion of the work, meet specified standards.

(d) A grant not exceeding half the estimated cost of the work or £300, whichever is the less, is payable to certain persons (usually elderly persons) living in a county health district who carry out essential repairs to their house where the work commenced on or after 1st November, 1977.

(e) The grants hitherto payable to housing authorities under section 24 of the Housing Act, 1966, for the carrying out by the authority of improvement works to a non-vested local authority house with the aid of a contribution from the tenant have been increased to £600 or two-thirds of the cost of the work, whichever is the less, with effect from 1st November, 1977.

6. The purpose of *section 6* is to enable a housing authority to pay a grant to a person providing a new house and to pay a grant or make other assistance to a person carrying out improvement works to a house, subject to such regulations as may be made. Assistance other than grants could include building materials, labour or any other contribution in kind. The Minister may also contribute to the expenses incurred by a housing authority in this regard.

The section validates the payment of grants by housing authorities and the making of contributions by the Minister since 1st February, 1972, in respect of improvement works to a house for the accommodation of physically disabled persons. On 1st July, 1975, this scheme was extended to include severely mentally handicapped persons.

The section largely replaces sections 26 to 32 of the Housing Act, 1966, and section 3 of the Local Government (Sanitary Services) Act, 1962, which are repealed by *section 22*. (It will be noted that this is an enabling provision. Grants or supplementary grants are not generally payable by housing authorities at present.)

7. *Section 7* will empower the Minister to pay grants to approved bodies providing housing and caretaker accommodation for elderly persons, subject to such regulations as may be made. The section replaces section 19 of the 1966 Act, which is repealed by *section 22*. *Subsection (2)* validates increases in the amounts of grants payable for works commenced on or after 1st January, 1978.

8. *Section 8* will enable a housing authority to make a secured or an unsecured loan to a person carrying out improvement works to a house, subject to such regulations as may be made. It re-enacts the main provisions of section 40 of the 1966 Act and section 4 of the Local Government (Sanitary Services) Act, 1962, which are repealed by *section 22*. *Section 8* also provides a statutory basis for the revised improvement loan scheme of up to £600 without security and up to £2,500 with security, introduced with effect from 1st November, 1977.

Section 5 of the 1962 Act, which enables a sanitary authority to guarantee loans made to a person for the installation of private water and sewerage facilities, is repealed by *section 22* and guarantees previously given under that section will, in future, be given under section 42 of the 1966 Act.

9. *Section 9* will enable the Minister to pay a subsidy to housing authorities towards the loan charges incurred by them in providing

sites for private housing, subject to such regulations as may be made. The section replaces a corresponding provision in section 44 of the 1966 Act, which is repealed by *section 22*.

10. *Section 10 (1)* provides for the scheme of local authority housing subsidy which applied to the period from 1st April, 1973, to 31st December, 1976. *Section 10 (2)* provides for the payment by the Minister of a subsidy to housing authorities not exceeding the annual loan charges incurred by them from 1st January, 1977, in respect of the provision of houses for letting, subject to such conditions as may be specified in regulations. The section replaces section 44 of the 1966 Act in so far as local authority housing subsidy is concerned. Under *subsection (5)*, subsidy payments can be made either to the housing authority or directly to the agency from which the loans were obtained. In the case of moneys borrowed from the Commissioners of Public Works, subsidy could also be effected by writing off moneys owed to the Commissioners by housing authorities (*section 10 (6)*). *Section 10 (7)* validates the revised subsidy arrangements in operation since 1st April, 1973.

11. *Section 11* will enable the Minister to subsidise certain repayments of house purchase loans made under section 39 of the 1966 Act or the instalment payments of the price of a house sold by a housing authority under section 90 of that Act to a non-tenant, subject to such regulations as may be made. Housing authorities will be empowered to pay, at their discretion, a supplementary subsidy not exceeding the amount of the subsidy paid by the Minister. This section will provide a statutory basis for what is known as the Low-rise Mortgage Scheme. Under this scheme, subsidised loans may be made by a housing authority to certain tenants and tenant purchasers of local authority houses, who surrender their interest in the houses and purchase private houses and to applicants in specified categories who have been on local authority waiting lists and who are prepared to purchase private houses. Subsidies also apply to a person allocated a new local authority house, who purchases the house on an instalment basis. The amounts of the loan repayments or the instalment payments take into account the subsidy payable by the Minister to a housing authority under *section 11 (1)* and, where appropriate, the supplementary subsidy payable under *section 11 (2)*. The amount of the subsidy diminishes progressively until the tenth year, when full loan repayments or instalment payments are made. A refund, in whole or part, of subsidy payments made to a borrower or purchaser can be required under *section 11 (3) (c)* where the borrower or purchaser redeems the loan or sells or otherwise transfers the house in certain circumstances within a specified period after receiving subsidy.

Section 11 (4) validates the operation of the scheme since its introduction on 22nd November, 1976.

12. *Section 12* provides statutory authority for the payment by the Minister of an interest subsidy from 1st June, 1977, on housing loans issued by a building society and guaranteed by a housing authority under section 42 of the 1966 Act. The loans were made during the period 1969 to 1972 to certain householders who qualified for the normal local authority house purchase loans at a fixed interest rate of 9 per cent from Dublin Corporation and from Dublin County Council.

13. *Section 13* is largely a re-enactment of section 106 of the 1966 Act, which is being repealed by *section 22*. Section 106 requires a housing authority to put a house into good structural condition before the house is sold to a tenant. In order to expedite the purchase of local authority houses, however, a new optional procedure is being introduced under *section 13* whereby the authority and the tenant may agree on the nature, extent and cost of the works necessary to put the house into good structural condition and the tenant may, within a specified period, carry out the works directly or arrange

to have them carried out. The local authority would pay the tenant the agreed cost of the works on their satisfactory completion. *Subsections (2) (e) and (6)* provide for statutory rights of appeal.

14. *Section 14* extends the general power in *section 5* of the 1966 Act to make regulations by enabling regulations to be applied either generally or to persons, areas, houses, loans, works or other matters. The section also largely re-enacts *section 14* of the 1966 Act, which is being repealed by *section 22*.

15. *Section 33* of the 1966 Act provided for rates relief in respect of grant-aided new houses or reconstruction works. Consequent on the introduction of grants for improvement works to houses to facilitate physically disabled persons and severely mentally handicapped persons (from 1st February, 1972, and 1st July, 1975, respectively) and the restriction of eligibility for new house grants (between 1st January, 1976, and 6th July, 1977) it is necessary to validate the rates relief which was given as a result of these decisions. *Section 15* provides accordingly.

16. *Section 60 (8)* of the 1966 Act requires a housing authority, in determining the order of priority to be followed in letting local authority houses in accordance with their approved scheme of letting priorities, to obtain and have regard to a report from their chief medical officer. *Section 16* provides that a housing authority may exercise a discretion as to whether or not they should obtain a report from a medical officer of health of the appropriate Health Board. Where, however, a report is obtained, the authority must have regard to it. (The Health Act, 1970, transferred to Health Boards functions under the Health Acts previously exercised by local authorities).

17. *Section 17* enables the Minister to direct a housing authority to offer for sale or not to sell, as the case may be, houses of specified classes. The purpose of the section is to ensure that most local authority tenants will have an opportunity to purchase their houses. The section also ensures that special purpose-built houses which would normally be unsuitable for family use (e.g. elderly persons houses) are not lost from the local authority housing stock. At present, a housing authority has discretion under *section 90* of the 1966 Act as to the sale of any of their houses.

18. *Section 18* replaces *section 35 (2)* of the 1966 Act, which is repealed by *section 22*. The new section strengthens the statutory framework for certifying reasonable value in the prices of new houses and flats. *Subsection (1)* provides that, subject to such regulations as may be made, the Minister may grant a Certificate of Reasonable Value (CRV) in respect of a new house being provided for sale. The Minister may also grant a Certificate of Exemption where it appears to him that a house is not being provided for sale. The term "sale" is defined in *subsection (14)*. *Subsection (2)* will empower the Minister to require that certain loans by lending agencies in respect of new houses cannot be made unless a CRV is obtained. *Subsection (3)* sets out the main circumstances in which the Minister may refuse to grant a CRV. *Subsection (4)* will enable the Minister to revoke a CRV or grant another CRV. This power is designed mainly to facilitate applicants for CRVs. Under *subsection (5)*, an application for a CRV must be supported by such information as may be deemed necessary by the Minister and it shall be an offence to furnish false or misleading information. *Subsection (6)* provides that it will be the duty of the person to whom a CRV is granted to ensure that standards in relation to the house are not inferior to those indicated in the documentary or other information in support of the CRV application. Under the subsection, the house must be sold for a price not exceeding that specified in the CRV (with provision being made for price adjustment to compensate for changes in standards and/or variations in cost in accordance with a price variation clause, where this applies). The onus of ensuring that the latter condition is complied with rests on the recipient of the CRV and the purchaser. A person who contravenes these provisions

is guilty of an offence. *Subsection (7)* sets out requirements and conditions which may be specified in regulations made under the section. *Subsection (8)* provides statutory authority to the Minister to revoke a CRV or refuse to issue any further certificate for a period of up to five years to any person, or a person connected with him (with special provision being made relating to a company), who has supplied false or misleading information for the purpose of securing a CRV or who has contravened *paragraph (a) or (b) of subsection (6)* or a condition subject to which a CRV was granted. It provides for prior notification of the Minister's intentions in this regard to be given to the person (or company) concerned and for a right of appeal against the Minister's decision by that person (or company) to the High Court. It also provides for a right of appeal relating to the Minister's opinion under *subsection (14)*.

Subsections (9) and (10) make it an offence to forge or alter a CRV with intent to deceive, or to contravene either a condition subject to which a CRV is granted or a regulation under the section. *Subsection (11)* provides for the circumstances in which the commission of an offence by a person is due to the act or default of some other person. *Subsection (12)* provides a defence in relation to proceedings for an offence. *Subsection (13)* provides for penalties in case of conviction for an offence under this section. *Subsection (14)* contains definitions.

19. *Section 19* will enable certain persons to take and receive a statutory declaration for the purpose of an application for a grant, loan or subsidy under the Bill in addition to the persons specified in section 1 of the Statutory Declarations Act, 1938.

20. *Section 20* contains a technical amendment to section 30 (2) of the Buildings Societies Act, 1976 (which relates to the powers of the Registrar of Building Societies to investigate the affairs of a society), to remove doubts as to the constitutionality of the existing provisions. The point at issue is similar to that for which provision was made in the Tribunals of Inquiry (Evidence) (Amendment) Act, 1979. *Section 20* will also extend the Minister's power to make regulations under section 77 of the 1976 Act. The expressions "and the financial needs of the national housing programme" and "and the conditions subject to which such loans may be made" are additional to the existing provisions in section 77 (1).

21. *Section 21* will enable the Minister for Health to transfer certain lands (at Navan Road, Dublin) to Dublin Corporation and the Commissioners of Public Works. The Minister for Health holds the lands in trust under section 21 (3) of the Saint Laurence's Hospital Act, 1943, and amending legislation is necessary to ensure satisfactory title on transfer of the lands.

22. *Section 22* and the Schedule repeal those sections of the Housing Acts, 1966 to 1970, and of the Local Government (Sanitary Services) Act, 1962, which are superseded by provisions in the Bill. The section includes appropriate transitional provisions. It also repeals sections 90 (6) (a) and 98 (5) of the 1966 Act, which enabled a housing authority to require payment (generally referred to as a "clawback" payment) to them of part of the profit made on the sale of a house by a tenant purchaser.

23. *Section 23* relates to the title, collective citation and construction. Retrospective provisions are contained in *sections 2 to 7 and 10 to 12* of the Bill. It is proposed that the remaining sections will come into operation when the Bill is enacted.

An Roinn Comhshaoil,
Aibreán, 1979.