



**BILLE NA dTITHE (FORÁLACHA ILGHNÉITHEACHA)
(UIMH. 2), 2001**
**HOUSING (MISCELLANEOUS PROVISIONS) (NO. 2) BILL,
2001**

EXPLANATORY AND FINANCIAL MEMORANDUM

Background

This Bill represents one element of a programme of measures to increase the resources devoted to housing, strengthen the powers of local authorities and improve the delivery and management of social and affordable housing. The main aims of the Bill are to amend, extend and consolidate the Housing Acts, 1966 to 1998, the Housing Finance Agency Act, 1981, the Building Societies Act, 1989, and to provide for certain other matters in relation to housing.

Overview

The Bill specifically provides for:

- (a) increasing the borrowing limit of the Housing Finance Agency (HFA), from £1.5 billion to €6 billion, to enable the HFA to provide finance to local authorities for capital purposes under the Local Government (Sanitary Services) Acts, the Waste Management Act or other Acts prescribed by the Minister, and to lend to approved voluntary housing bodies;
- (b) placing the Local Authority Affordable Housing Scheme on a statutory basis and provide for a clawback under this scheme and under the Shared Ownership Scheme;
- (c) provide flexibility in relation to the administration of the new house grants scheme;
- (d) enabling the Minister to provide financial assistance to organisations which provide advice or research on housing matters;
- (e) to make various amendments to existing housing legislation including technical amendments to the Building Societies Act, 1989 and to provide that house price statistics data provided to the Department of the Environment and Local Government by mortgage lending institutions may not be disclosed except in accordance with arrangements agreed with lenders contributing to such data or else in accordance with the Freedom of Information Act, 1997.

PART 1

Preliminary and General

Part 1 (sections 1 to 4), together with *Schedule 1* contains the usual provisions of a general nature dealing with such matters as citations, construction and commencement, interpretation (see *section 2* for definitions of various terms), regulations, orders and repeals.

PART 2

Affordable and Shared Ownership Housing Schemes

This Part deals with the provision of Affordable and Shared Ownership Housing, under which schemes housing authorities may assist low income households into home ownership.

Section 5 defines various terms used in this Part. *Section 6* places the affordable housing scheme on a statutory basis and sets out the issues in respect of which the Minister may make regulations for the purposes of the provision of affordable houses by a housing authority. *Subsection (1)* provides that housing authorities may “acquire, build or cause to be built affordable houses”. *Voluntary housing bodies can be involved with the provision of such housing on behalf of the housing authority.*

Section 7 provides that mortgage subsidies may be provided to eligible persons by housing authorities, and that these subsidies may be recouped in part or all, from moneys provided by the Oireachtas with the consent of the Minister and the Minister for Finance.

Section 8 states that the order of priority for the provision of affordable housing shall be determined by the housing authority and also sets out the criteria to which housing authorities shall have regard.

Section 9 provides for controls, including a clawback of profit, on the first resale of houses purchased under the affordable housing scheme, in the event that houses are sold by the initial owners within 20 years of the date of purchase. Agreements made under this section may include a clawback calculated under *subsection (3)*, by reference to the difference between the market price of the house at the time of sale and the actual price paid, discounted by 10 per cent for each complete year of occupation after the 10th year. This is done to ensure that such persons do not profit unduly by virtue of their participation in this scheme. Money recouped under this section must be applied by the housing authority towards the provision of housing.

Section 10 provides for controls including a clawback of profit, on the first resale of houses purchased under the shared ownership scheme, and also provides controls on purchase of the interest of the housing authority in the house, in the event that either set of circumstances arise within 20 years of the date of the Shared Ownership lease. Agreements made under this section may include a clawback calculated under *subsection (3)*, by reference to the difference between the market price of the house at the time of sale and the notional value of the house discounted by 10 per cent for each complete year of occupation after the 10th year, where the notional value is equivalent to the market value less rent subsidy paid. Money recouped under this section must also be applied by the housing authority towards the provision of housing.

Miscellaneous

Section 11 enables the Minister to make regulations which provide for the payment of a grant to a person in respect of a new house. This provision is intended to provide sufficient flexibility to allow for the removal of current anomalies such as the non-payment of a new house grant to the second person of a separated couple who purchases a new house where a legal separation has been obtained. The section also provides greater flexibility for the payment of grants in the future including differential rates of new house grants to encourage, for example, more efficient use of energy, including the use of renewable forms of energy. This is in line with a commitment in the National Sustainable Development Strategy.

Section 12 brings together all the existing provisions governing assistance by the Minister of approved housing bodies by way of grant-aid. The Minister is empowered to provide financial assistance to bodies providing research or advice on housing. Aspects of housing, to which research by an approved body may relate, are clarified.

Section 13 prohibits the general disclosure of information collected from mortgage lenders for statistical purposes, except in accordance with arrangements agreed with them or in accordance with the Freedom of Information Act, 1997.

Section 14 provides for the amendment of section 58 of the Housing Act, 1966, in order to clarify the management responsibilities, and charges on housing authorities in relation to common areas to a dwelling house. It provides that where a dwelling such as a private apartment is let to a tenant, the housing authority may not be held responsible for the common areas shared by this dwelling with other dwellings, that the authority may manage and control any dwelling let by them and may also pass on any charges relating to that dwelling. This is to ensure that housing authorities are not held responsible for the upkeep and maintenance of common areas in cases where management companies charge owners of all dwellings sharing those areas for such services.

Section 15 amends section 90 of the Housing Act, 1966, to clarify the liabilities of housing authorities following the sale of a dwelling under a tenant purchase scheme, in terms of the provision of services and insurance of the dwelling.

Section 16 amends section 23 of the Housing (Miscellaneous Provisions) Act, 1992 definition of housing authority to take account of the new powers afforded to housing authorities under the Affordable Housing Scheme (sections 5 - 10) such as the control over first re-sale of houses sold under the Shared Ownership and Affordable Housing schemes, the determination of priority for provision of these schemes, and the facility to provide mortgage subsidies to eligible persons. The amendment also provides that the boroughs of Sligo, Wexford and Drogheda are now included under the definition of a housing authority for the purposes of the Affordable Housing and Shared Ownership schemes.

Section 17 provides for the amendment of the Housing Finance Agency Act, 1981, to increase the borrowing capabilities of the HFA, to enable the HFA to provide finance to local authorities for capital purposes under the enactments set out in the Second *Schedule*, and to lend to approved voluntary housing bodies.

Section 18 provides for amendments to the Building Societies Act, 1989, which are set out in the *Third Schedule*.

The First Schedule sets out the enactments repealed.

The Second Schedule sets out the enactments referred to under *section 17(d)* thereby detailing the capital purposes for which the HFA may provide money to local authorities.

The Third Schedule sets out the amendments to various sections of the Building Societies Act, 1989 as follows:

- Amendments to *sections 23* and *29* extend the lending capabilities of building societies, to equate the level of Central Bank approval required from societies with that required from banks, while ensuring that the Central Bank maintains the appropriate degree of control.
- The amendment of *section 25* provides flexibility for building societies in assessing the value of security for loans in order to bring the legal requirements on the societies into line with those applying to the commercial banks.
- *Section 34* is being amended to remove restrictions on building societies in relation to their power to hedge, subject to the control of the Central Bank.
- *Section 40(2)* is being amended to equate the obligations of building societies with those of other lending institutions, having regard to the control of the Central Bank, where the society's authorisation to raise funds is revoked by the Bank.
- Amendments to *sections 53, 57* and *59* provide for bringing the requirements on building societies regarding loans to directors and connected persons and the disclosure of such loans, in line with the requirements on commercial lending agencies.
- The amendments to *sections 77, 81* and *88* are technical amendments further to changes in accounting practices.
- The addition of *section 101(b)* provides that in the event of demutualisation of a society, free shares in the successor company along with options to purchase further shares will, in the case of joint account holders who are eligible for such shares, issue in the names of all members of the joint account, rather than the first named shareholder.

Staffing and financial implications

There are no implications for exchequer costs.

An Roinn Comhshaoil agus Rialtais Áitiúil,
Nollaig, 2001.