



**AN BILLE UM CHOMHAONTÚ NA BREATAINE-NA
hÉIREANN (LEASÚ) 2005
BRITISH-IRISH AGREEMENT (AMENDMENT) BILL 2005**

EXPLANATORY MEMORANDUM

Introduction

The purpose of this Bill is to remedy a possible technical defect in section 53(b) of the British-Irish Agreement Act 1999. This section gives the North/South Implementation Bodies protection as ‘State authorities’ under Landlord and Tenant (Ground Rents) legislation. The effect of such protection is that a lessee does not acquire the right to buy out the fee simple of a property on State land in respect of which a ground rent is paid. However, the reference in section 53(b) is to section 70 of the Landlord and Tenant Act 1980. This is in effect a subsequent amending provision: the original provision which shields State authorities is section 4 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978.

The overall effect of the 1978 Act is to give a lessee of certain categories of property the right to acquire the fee simple, subject to conditions and exemptions detailed in that Act. Section 4 provides that this right does not apply in the case of properties leased from a Minister of the Government, the Commissioners of Public Works or the Land Commission. Section 70 of the 1980 Act is a subsequent provision, which modifies that general exemption by creating a right to buy out the fee simple in the case of dwellinghouses erected on land owned by a State authority, subject to the right of a State authority to prevent alienation of an individual property where it considers that the public interest so requires.

This Bill removes any doubt that a North/South Implementation Body is not bound by the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 and directly incorporates the exemption in respect of the protection for dwellinghouses contained in the Landlord and Tenant Act 1980 in the same terms as set out in that Act.

The legislation does not apply to any notice of intention or any application made in relation to the acquisition of the fee simple before the passing of the Bill or any arbitration or appeal to the Circuit Court in respect of such a notice or application.

Provisions of the Bill

Section 1 contains two technical definitions that are necessary.

Section 2 restates section 53(a) of the British-Irish Agreement Act 1999 (which provides that a Body is a state authority for the purposes of the Statute of Limitations 1957) and creates a new section 53A in the 1999 Act so as to expand and clarify the existing provision in

section 53(b) of that Act. The new section confirms that a North/South Implementation Body is not bound by the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 and incorporates the exemption in respect of dwellinghouses contained in the Landlord and Tenant Act 1980 in the same terms as set out in that Act.

Section 3 provides the appropriate savers in respect of notice of intention or any application made in relation to the acquisition of the fee simple before the passing of the Bill or any arbitration or appeal to the Circuit Court in respect of such a notice or application.

Section 4 sets out the short title of the Bill and provides that it can be cited in combination with the British-Irish Agreement Acts 1999 to 2002, which it amends.

*An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta,
Bealtaine, 2005.*