



BILLE NA dTITHE (ÍOCAÍOCHTAÍ CÉIME) 2006
HOUSING (STAGE PAYMENTS) BILL 2006

EXPLANATORY MEMORANDUM

Purpose of Bill

The Housing (Stage Payments) Bill 2006 is designed to abolish the practice of stage payments for certain types of newly constructed properties, thereby reducing the costs to consumers of such housing and eliminating the risks associated with such practices.

Stage payments typically arise in two types of housing purchase transaction.

In the first instance, an individual purchaser arranges with an individual builder to construct a house, usually on a site that has been purchased by the purchaser. In such circumstances payment for the purchase of the house by stage payments is perfectly normal and acceptable, given that payment of the cost of construction is made by the purchaser to the builder on foot of architect's certificates after the various stages of construction have been completed. This practice is recognised, standard and well established. It is acceptable because purchasers are paying for building works that are already completed.

The second instance where stage payments arise relates to houses that are built in housing estates. Traditionally the purchase of these houses was funded through stage payments. However the system disappeared completely from Dublin and most of Leinster up to 20 years ago, and nowadays purchasers in these areas pay for the construction of newly built houses with a 10 per cent contract deposit and the payment of 90 per cent balance on the final completion. This system is open and transparent, with the purchasers being fully aware at the outset of the extent of their liabilities, enabling them to budget accordingly.

In some parts of the country, the practice of purchasing newly constructed houses in housing estates by stage payments endures. This Bill seeks to abolish this practice on the basis that it adds to the purchasers' costs of buying such new houses and introduces huge financial risks for the purchaser in stage payment contracts.

The stage payment system in estate-type housing purchases is unfair as it involves the preponderance of risk in the construction of new houses in housing estates being carried by the purchasers rather than the builders. Similarly it involves purchasers accessing significant funding, by the way of mortgages, before they are in a position to live in the house and before work is completed. They must draw down their mortgage before completion and thus service a loan before they can occupy the property.

Provisions of the Bill

Section 1 contains definitions and provides that the Bill applies to houses constructed in a Scheme of Development. A Scheme of Development is defined as a building scheme with one or more houses built on land owned or controlled or provided at the direction of a builder of houses. This is to distinguish the use of stage payment for houses constructed in housing estates from situations where a house is developed at the specific commission of a particular purchaser.

Section 2 provides that a provision in a contract for sale or construction of a house which provides for stage payments for partial completion in excess of 10 per cent of the purchase price of the house shall not be enforceable. This has the effect of preventing stage payments being inserted in contracts for the sale or construction of a house on a Scheme of Development.

Section 3 provides for the recovery of any sums due to a Builder where at the express instruction of the purchaser there are amendments or alterations to the house.

Section 4 provides for the commencement of the Bill 30 days from enactment by the Oireachtas.

Financial Implications

There are no financial or staffing implications arising from the Bill.

*An Seanadóir Pól Ó Cochláin, an Seanadóir Seosamh Ó Tuathail
agus an Seanadóir Brendan Ó Riain,
Márta, 2006.*