



DÁIL ÉIREANN

AN BILLE UM ATHCHÓIRIÚ AN DLÍ TALÚN AGUS TÍOLACHTA 2006 LAND AND CONVEYANCING LAW REFORM BILL 2006

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM ATHCHÓIRIÚ AN DLÍ TALÚN AGUS TÍOLACHTA 2006 —ROGHCHOISTE

LAND AND CONVEYANCING LAW REFORM BILL 2006 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 13, line 15, to delete “and Conveyancing”.

—Joanna Tuffy.

SECTION 3

2. In page 14, between lines 5 and 6, to insert the following:

““consent” includes agreement, licence and permission;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

3. In page 14, to delete lines 11 and 12 and substitute the following:

““the court” means—

(a) the High Court, or

(b) the Circuit Court when exercising the jurisdiction conferred on it by the Third Schedule to the Courts (Supplemental Provisions) Act 1961;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

4. In page 14, between lines 32 and 33, to insert the following:

““housing loan” has the meaning given to it by section 2(1) of the Consumer Credit Act 1995, as substituted by section 33 of, and Part 12 of Schedule 3 to, the Central Bank and Financial Services Authority of Ireland Act 2004 and “housing loan mortgage” means a mortgage to secure a housing loan.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

5. In page 15, line 34, to delete “land” and substitute “property”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

6. In page 16, to delete lines 1 and 2 and substitute the following:

““property” means any real or personal property or any part or combination of such property;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

7. In page 16, between lines 2 and 3, to insert the following:

““Property Registration Authority” has the meaning given to it by section 9 of the Act of 2006;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

8. In page 16, line 11, after “worth” to insert “or any other consideration”.

[SECTION 3]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

9. In page 16, line 15, to delete “or” and substitute “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 4

10. In page 17, subsection (1)(e), line 15, to delete “assigned” and substitute “given to it”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

11. In page 17, subsection (1)(e), line 17, to delete “assigned” and substitute “given to it”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 5

12. In page 18, subsection (1)(c), line 3, after “giving” to insert “full”.

—Joanna Tuffy.

13. In page 18, lines 4 to 13, to delete subsection (2).

—Joanna Tuffy.

14. In page 18, subsection (4), line 21, to delete “shall be” and substitute “is”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 8

15. In page 18, subsection (2), line 40, after “*subsection (1)*,” to insert the following:

“and without prejudice to section 26(2)(f) of the Act of 2005,”.

—Joanna Tuffy.

16. In page 18, subsection (2), line 45, to delete “is to” and substitute “shall”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 9

17. In page 19, between lines 6 and 7, to insert the following subsections:

“(2) In so far as they survive, titles of honour or dignity arising from feudal baronies and manorial lordships are abolished.

(3) If after the commencement of this section a person purports to sell or offer for sale a title of honour or dignity abolished by *subsection (2)*, he or she shall be guilty of an offence.”.

—Joanna Tuffy.

18. In page 19, subsection (3)(b), line 12, to delete “in” and substitute “under”.

—Joanna Tuffy.

19. In page 19, between lines 17 and 18, to insert the following subsection:

“(4) Subject to this Act a fee simple shall be freely alienable by the owner thereof.”.

—Joanna Tuffy.

20. In page 19, between lines 17 and 18, to insert the following subsection:

[SECTION 9]

“(4) A tenant of a local authority who whether before or after the commencement of this section purchases a fee simple from the authority may alienate the fee simple without the consent of the authority.”.

—Joanna Tuffy.

SECTION 11

21. In page 20, subsection (2)(c)(ii), line 3, after “person,” to insert “or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

22. In page 20, subsection (5), line 32, to delete “before” and substitute “at”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

23. In page 20, subsection (6), line 38, to delete “so referred to” and substitute “referred to in those subsections”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 12

24. In page 21, before section 12, to insert the following new section:

“Interests in
apartment
developments.

12.—(1) (a) It shall be a condition of any planning permission for an apartment development that the applicant will form a management company and arrange for the issue of shares in the company to purchasers of apartments in the development.

(b) Where a permission has been granted prior to the commencement of this section for an apartment development, the developer shall form a management company (if not already formed) and arrange for the issue of shares in the company to purchasers of apartments in the development (if not already issued) within 12 months of the commencement of this section.

(2) Section 34(4)(f) of the Act of 2000 is amended by the addition after “houses” of “or apartments”.

(3) On demand made by a majority of the purchasers of apartments in an apartment development, or on completion of the development, whichever first occurs, or in the case of developments completed prior to the commencement of this section, on the date which is 12 months from the commencement of this section, the developer shall transfer ownership and management of all common areas to the management company referred to in *subsection (1)*.

(4) A purchaser may apply in a summary manner to the court in the event of a failure to comply with this section and the court may require the applicant or developer to take such steps as the court directs to comply with the section and to pay compensation to the purchaser in such amount as the court thinks fit.”.

—Joanna Tuffy.

25. In page 21, subsection (2), line 7, to delete “entered into” and substitute “executed”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

26. In page 21, between lines 22 and 23, to insert the following subsection:

“(5) Notwithstanding *section 11(2)*, any fee simple held under a fee farm grant existing at law at the commencement of this Part continues as a legal estate and may be disposed of.”.

[SECTION 12]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

27. In page 21, subsection (5), line 23, to delete “11(4)” and substitute “11(3)”.

—Joanna Tuffy.

SECTION 13

28. In page 21, subsection (2), line 28, to delete “entered into” and substitute “executed”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

29. In page 21, between lines 40 and 41, to insert the following subsection:

“(4) Where on the commencement of this section, or on a person becoming entitled to a fee tail after such commencement, another person’s estate or interest in land is extinguished by virtue of *subsection (3)*, the second-mentioned person may apply to the court within 12 years of such extinguishment for an order determining the amount of compensation if any that should be paid to the second-mentioned person, and such order may make provision for charging the payment on the land subject to such conditions as the court sees fit.”.

—Joanna Tuffy.

SECTION 14

30. In page 22, subsection (1), line 18, after “equity” to insert the following:

“and shall be deemed to be a grant of an indefinite lease terminable at will”.

—Joanna Tuffy.

SECTION 21

31. In page 25, subsection (1), to delete lines 18 to 21 and substitute the following:

“so that it ceases to affect that estate or interest, whether or not the purchaser has notice of the equitable interest.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

32. In page 25, subsection (3)(a), line 33, to delete “or other improper”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

33. In page 26, subsection (3)(b)(iii), line 3, to delete “conveyance .” and substitute the following:

“conveyance or taking effect as a burden coming within section 72(1) (j) of the Act of 1964 (or, in the case of unregistered land, which would take effect as such a burden if the land were registered land).”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

34. In page 26, subsection (5), lines 7 and 8, to delete all words from and including “of” in line 7 down to and including “effect” in line 8 and substitute the following:

“arising from the conveyance and effect shall be given”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 22]

SECTION 22

35. In page 26, lines 33 and 34, to delete subsection (4) and substitute the following:

“(4) In *subsection (1)*, “person having an interest” includes a mortgagee or other secured creditor, a judgment mortgagee or a trustee.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 23

36. In page 26, before section 23, to insert the following new section:

“PART 5*

VARIATION OF TRUSTS

Interpretation of
Part 5.

23.—In this Part—

“appropriate person”, in relation to a relevant trust, means—

- (a) a trustee of, or a beneficiary under, the trust, or
- (b) any other person that the court, to which the application concerned under *section 24*** is made, considers appropriate;

“arrangement”, in relation to a relevant trust, means an arrangement—

- (a) varying, revoking or resettling the trust, or
- (b) varying, enlarging, adding to or restricting the powers of the trustees under the trust to manage or administer the property the subject of the trust;

“relevant person”, in relation to a relevant trust, means—

- (a) a person who has a vested or contingent interest under the trust but who is incapable of assenting to an arrangement by reason of lack of capacity (whether by reason of minority or absence of mental capacity),
- (b) an unborn person,
- (c) a person whose identity, existence or whereabouts cannot be established by taking reasonable measures, or
- (d) a person who has a contingent interest under the trust but who does not fall within *paragraph (a)*;

“relevant trust”—

- (a) subject to *paragraph (b)*, means a trust arising, whether before, on or after the commencement of this section, under a will, settlement or other disposition,
- (b) does not include—
 - (i) a trust created for a charitable purpose within the meaning of the Charities Acts 1961 and 1973,

[SECTION 23]

- (ii) an occupational pension scheme within the meaning of the Pensions Act 1990 established under a trust,
 - (iii) a trust created by a British statute,
 - (iv) a trust created by a Saorstát Éireann statute, or
 - (v) a trust created by an Act of the Oireachtas, whether passed before, on or after the commencement of this section.”.
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: The proposed new Part comprehends the inclusion of amendment number 37.]

[**Note: This is the appropriate reference if amendment number 37 is accepted.]

37. In page 27, before section 23, to insert the following new section:

“Jurisdiction of court to vary, etc. trusts.

24.—(1) An appropriate person may make, in respect of a relevant trust, an application to the court for an order to approve an arrangement specified in the application for the benefit of a relevant person specified in the application if the arrangement has been assented to in writing by each other person (if any) who—

- (a) is not a relevant person,
- (b) is beneficially interested in the trust, and
- (c) is capable of assenting to the arrangement.

(2) The court shall not hear an application made to it under *subsection (1)* in respect of a relevant trust unless it is satisfied that the applicant has given notice in writing of the application—

- (a) to the Revenue Commissioners, and
- (b) to such persons as may be prescribed by rules of court,

at least 2 weeks before the hearing of the application.

(3) The court may hear an application made to it under *subsection (1)* otherwise than in public if it considers that it is appropriate to do so.

(4) The court shall determine an application made to it under *subsection (1)* in respect of a relevant trust—

- (a) subject to *paragraph (b)*, by making an order approving the arrangement specified in the application if it is satisfied that the carrying out of the arrangement would be for the benefit of—
 - (i) the relevant person specified in the application, and
 - (ii) any other relevant person,
- (b) by refusing to make such an order in any case where—
 - (i) the court is not satisfied as referred to in *paragraph (a)*, or

[SECTION 23]

- (ii) the Revenue Commissioners have satisfied the court that the application is substantially motivated by a desire to avoid, or reduce the incidence of, tax.

(5) In determining under *subsection (4)* whether an arrangement would be for the benefit of a relevant person, the court may have regard to any benefit or detriment, financial or otherwise, that may accrue to that person directly or indirectly in consequence of the arrangement.

(6) Nothing in this section shall be construed as derogating from or affecting the operation of—

- (a) the Charities Acts 1961 and 1973,
 - (b) any power of a court, whether under an enactment or rule of law, to—
 - (i) vary, revoke or resettle a trust (including a relevant trust), or
 - (ii) vary, enlarge, add to or restrict the powers of the trustees under a trust (including a relevant trust) to manage or administer the property the subject of the trust,
- or
- (c) any rule of law relating to the termination or revocation of a trust (including a relevant trust).”
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 29

38. In page 29, line 22, to delete “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 35

39. In page 31, before section 35, to insert the following new section:

“Incapacity.

[PA 1832, s. 7]

35.—(1) Subject to *subsection (2)*, where the servient owner is incapable, whether at the commencement of or during the relevant user period, of managing his or her affairs because of a mental incapacity, the running of that period is suspended until the incapacity ceases.

(2) *Subsection (1)* does not apply where—

- (a) the court considers that it is reasonable, in the circumstances of the case, to have expected some other person, whether as trustee, committee of a ward of court, an attorney under an enduring power of attorney or otherwise, to have acted on behalf of the servient owner during the relevant user period, or
- (b) at least 30 years have elapsed since the commencement of the relevant user period.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 35 of the Bill.]

[SECTION 42]

SECTION 42

40. In page 34, subsection (2)(a), line 29, after “good,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

41. In page 34, subsection (2)(b)(i), line 32, after “works,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

42. In page 34, subsection (3)(a), line 38, after “*subsection (2)(a)*,” to insert “or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 43

43. In page 35, lines 13 to 16, to delete subsection (1) and substitute the following:

“(1) Where a building owner and an adjoining owner are in dispute in relation to the exercise or proposed exercise of rights under *section 42*, either party may apply to the court in a summary manner and the court may give such directions as it thinks fit, and may in particular make an order authorising the carrying out of specified works (a “work order”).”

—Joanna Tuffy.

44. In page 35, between lines 16 and 17, to insert the following subsection:

“(2) Where a building owner and an adjoining owner are in dispute in relation to the giving of permission to the building owner temporarily to enter the lands of the adjoining owner where such entry is essential to enable the building owner to carry out essential repairs on the building owner’s land (other than to a party structure), either party may apply to the court in a summary manner and the court may give such directions as it thinks fit, and may in particular make an order authorising the building owner temporarily to enter the lands of the adjoining owner to carry out such repairs.”

—Joanna Tuffy.

SECTION 46

45. In page 35, before section 46, but in Chapter 3, to insert the following new section:

“High hedges.

46.—Where a person complains that trees or hedges grown or maintained by a neighbouring owner are of such a height as to constitute an unreasonable interference with any easement enjoyed by the complaining owner, or unreasonably interfere with light whether or not an easement exists in that regard, the person may apply to the court which may make such order, including an order directing the neighbouring owner to remove or reduce the height of any trees or hedges.”

—Joanna Tuffy.

46. In page 35, before section 46, but in Chapter 4, to insert the following new section:

“Interpretation of Chapter 4.

46.—In this Chapter, unless the context otherwise requires—

“developer” means the person who creates a scheme of development and that person’s successors in title;

“dominant land” means freehold land with the benefit of a covenant to which other freehold land is subject; and “dominant owner” shall be read accordingly and

[SECTION 46]

includes persons deriving title from or under that owner;

“freehold covenant” means a covenant attaching to dominant land and servient land which has been entered into after the commencement of this Chapter;

“persons deriving title” include—

- (a) a person who has acquired title to the land by possession under the Act of 1957;
- (b) a mortgagee, or receiver appointed by a mortgagee, in possession of the land;

“scheme of development” means a development of land under which—

- (a) the land is, or is intended to be, subdivided into 2 or more parts for conveyance in fee simple to each owner of a part;
- (b) there is an intention as between the developer and the owners of parts to create reciprocity of covenants in accordance with *section 47(3)**;
- (c) that intention is expressed in each conveyance to the owners of parts or implied from the covenants in question as they relate to the parts and the proximity of the relationship between their owners;

“servient land” means freehold land which is subject to a covenant benefiting other freehold land; and “servient owner” shall be read accordingly and includes—

- (a) persons deriving title from or under that owner, but not a tenant for a period less than 5 years,
- (b) in the case of a covenant which is restrictive in substance, a licensee or other person in occupation of the land with or without the consent of that owner.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 46 of the Bill.]

[*Note: This is the appropriate reference if amendment number 47 is accepted.]

SECTION 47

47. In page 36, before section 47, to insert the following new section:

“Enforceability of freehold covenants. 47.—(1) Subject to *subsection (6)*, the rules of common law and equity (including the rule known as the rule in *Tulk v Moxhay*) are abolished to the extent that they relate to the enforceability of a freehold covenant.

[CA 1881, ss. 58 and 59]

(2) Subject to *subsections (3) to (6)*, any freehold covenant which imposes in respect of servient land an obligation to do or to refrain from doing any act or thing is enforceable—

- (a) by—
 - (i) the dominant owner for the time being, or
 - (ii) a person who has ceased to be that owner but only in respect of any breach of covenant occurring during the period when that person was such owner,

[SECTION 47]

(b) against—

- (i) the servient owner for the time being in respect of any breach of covenant by that owner or which occurred before and continued unremedied after that person became the servient owner, or
- (ii) a person who has ceased to be that owner, but only in respect of a breach of covenant which occurred during the period when that person was such owner.

(3) Where there is a scheme of development *subsection (2)* applies so as to render covenants which are capable of reciprocally benefiting and burdening the parts of land within the scheme enforceable by and against the owners for the time being of such parts or persons referred to in *subsection (2)(a)(ii)* and *(2)(b)(ii)*.

(4) Where the servient land has been subdivided any obligations, whether to do or to refrain from doing any act or thing, relating to that land—

- (a) are apportioned, as appropriate to the subdivided parts of the land, between those parts,
- (b) are enforceable accordingly by or against the persons in whom the subdivided parts are vested,

as if those obligations had originally been entered into separately in respect only of each such part.

(5) Any dispute as to the application of *subsection (4)* to a particular case may be referred to the court for determination and, on such application, the court may order such apportionment as it thinks fit.

(6) This section—

- (a) does not affect—
 - (i) the enforceability of a covenant under the doctrine of privity of contract or a covenant for title under *section 77*, or
 - (ii) the application to a freehold covenant of the Act of 1957,
- (b) takes effect subject to the terms of the covenant or the instrument containing it.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[Acceptance of this amendment involves the deletion of section 47 of the Bill.]

SECTION 48

48. In page 36, subsection (1), line 38, after “covenant” to insert the following:

“(whether created before or after the commencement of this Chapter)”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

49. In page 37, subsection (2), line 3, after “regard” to insert “as appropriate”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

50. In page 37, between lines 32 and 33, to insert the following subsection:

“(4) An order under *subsection (1)* shall be registered in the Registry of Deeds or Land Registry, as appropriate.”.

[SECTION 48]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 54

51. In page 38, subsection (1), line 39, to delete “20” and substitute “15”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Charles Flanagan.

SECTION 55

52. In page 39, subsection (2), line 25, to delete “20” and substitute “15”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Charles Flanagan.

SECTION 57

53. In page 41, subsection (1), line 28, to delete “20” and substitute “15”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 62

54. In page 43, subsection (2)(b)(i), line 41, to delete “signature, and” and in page 44 to delete lines 1 to 3 and substitute “signature;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

55. In page 44, subsection (2), between lines 15 and 16, to insert “and”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

56. In page 44, between lines 17 and 18, to insert the following subsection:

“(3) Any deed executed under this section has effect as if it were a document executed under seal.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 65

57. In page 44, subsection (1), line 42, after “land” to insert “with or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 66

58. In page 45, subsection (1), lines 35 and 36, to delete “conveyance, or any regrant,” and substitute “conveyance or of any regrant”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

59. In page 45, subsection (1)(a), line 38, after “made,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 74

60. In page 48, subsection (3), to delete lines 26 to 29, and substitute the following:

“(3) Where a solicitor produces a deed which—

(a) has in its body a receipt for consideration, and

[SECTION 74]

(b) has been executed by the person entitled to give a receipt for the consideration.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 77

61. In page 50, lines 9 to 16, to delete subsection (5) and substitute the following:

“(5) The benefit of a covenant implied under this section—

(a) is annexed to and passes with the estate or interest of the implied covenantee,

(b) is enforceable by every person, including a tenant, mortgagee and any other person deriving title from or under the implied covenantee, in whom that estate or interest, or any part of it, or an estate or interest derived out of it, is vested from time to time.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 78

62. In page 51, lines 27 to 34, to delete subsection (4) and substitute the following:

“(4) The benefit of a covenant implied under this section—

(a) is annexed to and passes with the estate or interest of the implied covenantee,

(b) is enforceable by every person, including a tenant, mortgagee and any other person deriving title from or under the implied covenantee, in whom that estate or interest, or any part of it, or an estate or interest derived out of it, is vested from time to time.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 79

63. In page 52, subsection (2)(a), line 9, after “them,” to insert “or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 86

64. In page 55, lines 9 to 15, to delete subsection (2) and substitute the following:

“(2) Subject to *subsection (3)*, from the commencement of this Chapter—

(a) any instrument which would, but for the provisions of this section, convey a legal estate or interest in land by way of mortgage, or

(b) any other transaction which under any instrument would operate, but for the provisions of this section, as a mortgage by conveyance of a legal estate or interest in land,

does not create a legal mortgage.

(3) From the commencement of this Chapter, any transaction which under any statutory provision would, but for the provisions of this section, operate as a mortgage by conveyance of a legal estate or interest in land operates as if it were a mortgage under this Part.”.

[SECTION 86]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 87

65. In page 56, subsection (3), line 4, to delete “A” and substitute the following:

“Notwithstanding any stipulation to the contrary, a”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 88

66. In page 56, lines 15 to 18, to delete subsection (2) and substitute the following:

“(2) Rights under *subsection (1)* are exercisable—

(a) on the request of the mortgagor, and

(b) on payment by the mortgagor of the mortgagee’s reasonable costs and expenses in relation to the exercise.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 89

67. In page 56, before section 89, to insert the following new section:

89.—Notwithstanding any stipulation to the contrary, a mortgagor is entitled to redeem any housing loan mortgage without having to pay any money due under any other mortgage with the same mortgagee, whether that other mortgage is of the same or other property.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 89 of the Bill.*]

SECTION 91

68. In page 57, between lines 30 and 31, to insert the following subsection:

“(4) In the case of the sale

of a mortgaged property which is a family home, the court-

(a) shall have regard to the needs of the family and their capacity to secure alternative reasonable accommodation suitable for the family

(b) may direct that the Housing Authority be made a notice party to the proceedings

(c) may make such order as the court sees fit to direct the Housing Authority to make all reasonable efforts to secure alternative accommodation for the family

(d) shall not make any order for possession unless it can be shown by the mortgagor that the loan is in arrears by at least 12 months

“Restriction on consolidation of certain mortgages.

[CA 1881, s. 17]

[SECTION 91]

(e) shall, in any case under *paragraph (d)*, require the mortgagor to show that the mortgage was in all respects fair and equitable and that the implications were fully explained to the mortgagee at the time of approval of the mortgage application by the mortgagor.”.

—Charles Flanagan.

SECTION 93

69. In page 58, before section 93, but in Chapter 3, to insert the following new section:

“Powers and rights generally.

93.—(1) Subject to this Part, the powers and rights of a mortgagee under *sections 94 to 107*—

- (a) apply to any mortgage created by deed after the commencement of this Chapter,
- (b) vest, subject to section 62 of the Act of 1964, as soon as the mortgage is created,
- (c) do not become exercisable unless their exercise is for the purpose of protecting the mortgaged property or realising the mortgagee’s security,
- (d) in relation to the mortgaged property, apply to any part of it.

(2) A mortgagee’s right of foreclosure is abolished.

(3) The provisions relating to the powers and rights conferred by this Chapter apply to any housing loan mortgage notwithstanding any stipulation to the contrary and notwithstanding any powers and rights expressly conferred under such a mortgage, but otherwise, except where this Part provides to the contrary, take effect subject to the terms of the mortgage.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 93 of the Bill.*]

SECTION 94

70. In page 58, subsection (1), lines 28 and 29, to delete “and notwithstanding any stipulation to the contrary”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

71. In page 58, subsection (1), line 31, after “unless” to insert the following:

“, not more than one year before such taking of possession,”.

—Joanna Tuffy.

72. In page 58, between lines 31 and 32, to insert the following subsection:

“(2) In the case of the sale of a mortgaged property which is a family home, the court-

- (a) shall not make any order for possession unless it can be shown by the mortgagor that the loan is in arrears by at least 12 months

[SECTION 94]

(b) shall, in any case under *paragraph (a)*, require the mortgagor to show that the mortgage was in all respects fair and equitable and that the implications were fully explained to the mortgagee at the time of approval of the mortgage application by the mortgagor.”.

—Charles Flanagan.

73. In page 58, lines 36 to 43 and in page 59, lines 1 to 17, to delete subsections (3) to (6).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 95

74. In page 59, subsection (3)(b)(ii), line 41, to delete “or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 96

75. In page 60, subsection (1), line 8, after “possession” to insert the following:

“(or after the mortgagee has appointed a receiver and so long as the receiver acts, the receiver)”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 97

76. In page 60, before section 97, to insert the following new section:

“Power of sale.

[CA 1881, ss. 19(1)(i), 20, 21(4), 21(6) and (7)]

[CA 1911, s. 5(2)]

97.—(1) Subject to *subsection (3)* and *sections 98 to 103*, a mortgagee or any other person for the time being entitled to receive, and give a discharge for, the mortgage debt may sell or concur with any other person in selling the mortgaged property provided—

- (a) following service of notice on the mortgagor, or on one of 2 or more mortgagors, requiring payment of the mortgage debt, default has been made in payment of that debt, or part of it, for 3 months after such service, or
- (b) some interest under the mortgage or, in the case of a mortgage debt payable by instalments, some instalment representing interest or part interest and part capital is in arrears and unpaid for 2 months after becoming due, or
- (c) there has been a breach by the mortgagor, or some person concurring in the mortgage, of some other provision contained in the mortgage or any statutory provision, including this Act, other than a covenant for payment of the mortgage debt or interest,

and provided in each such case 28 days’ notice in the prescribed form has been served on the mortgagor warning of the possibility of such sale.

(2) The power of sale shall not become exercisable without a court order granted under *subsection (3)*, unless the mortgagor consents in writing to such exercise.

(3) At any time after expiration of the 28 days’ notice given under *subsection (1)*, a mortgagee may apply to the court for an order authorising exercise of the power of sale and on such application the court may, if it thinks fit, grant such authorisation to the applicant on such terms and conditions, if any, as it thinks fit.

[SECTION 97]

(4) An application under *subsection (3)* may be made with an application under *section 94(2)* and, in such case, both may be heard together.

(5) A mortgagee is not answerable for any involuntary loss resulting from the exercise or execution of the power of sale under this Chapter, of any trust connected with it or of any power or provision contained in the mortgage.

(6) Once the power of sale becomes exercisable, the person entitled to exercise it may demand and recover from any person, other than a person having in the mortgaged property an estate or interest in priority to the mortgage, all deeds and documents relating to the property, or its title, which a purchaser under the power of sale would be entitled to demand and recover.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 97 of the Bill.*]

SECTION 98

77. In page 60, before section 98, to insert the following new section:

“Applications under sections 94 and 97.

98.—(1) Upon an application for an order under, and without prejudice to the generality of, *sections 94(2)* and *97(3)**, where it appears to the court that the mortgagor is likely to be able within a reasonable period to pay any arrears, including interest, due under the mortgage or to remedy any other breach of obligation arising under it, the court may—

- (a) adjourn the proceedings, or
- (b) on making an order, or at any time before enforcement or implementation of such an order—
 - (i) stay the enforcement or implementation, or
 - (ii) postpone the date for delivery of possession to the mortgagee, or
 - (iii) suspend the order,

for such period or periods as it thinks reasonable and, if an order is suspended, the court may subsequently revive it.

(2) Any adjournment, stay, postponement or suspension under *subsection (1)* may be made subject to such terms and conditions with regard to payment by the mortgagor of any sum secured by the mortgage or remedying of any breach of obligation as the court thinks fit.

(3) The court may revoke or vary any term or condition imposed under *subsection (2)*.

(4) Nothing in this section affects the jurisdiction of the court under sections 7 and 8 of the Act of 1976.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[**Note: This is the appropriate reference if amendment number 76 is accepted.*]

SECTION 99

78. In page 61, subsection (1), line 31, to delete “acting on behalf of” and substitute “appointed by”.

[SECTION 99]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

79. In page 61, subsection (5), line 43, after “1989” to insert “or a receiver appointed under the Companies Acts”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 100

80. In page 62, subsection (1), line 2, to delete “Part” and substitute “Chapter”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 101

81. In page 62, subsection (1), line 27, to delete “Part” and substitute “Chapter”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 104

82. In page 63, lines 36 to 45, to delete subsection (1) and substitute the following:

“(1) Where—

- (a) following service of notice on the mortgagor, or on one of 2 or more mortgagors, requiring payment of the mortgage debt, default has been made in payment of that debt, or part of it, for 3 months after such service, or
- (b) some interest under the mortgage or, in the case of a mortgage debt payable by instalments, some instalment representing interest or part interest and part capital is in arrears and unpaid for 2 months after becoming due, or
- (c) there has been a breach by the mortgagor, or some person concurring in the mortgage, of some other provision contained in the mortgage or any statutory provision, including this Act, other than a covenant for payment of the mortgage debt or interest,

the mortgagee or any other person for the time being entitled to receive, and give a discharge for, the mortgage debt, may appoint, by writing, such person as the mortgagee or that other person thinks fit to be a receiver of—

- (i) the income of the mortgaged property, or
- (ii) if the mortgaged property comprises an interest in income, or a rentcharge or other annual or other periodical sum, that property.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 105

83. In page 64, subsection (1), line 26, to delete “income” and substitute “money”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 107

84. In page 65, subsection (2), line 28, to delete “charge” and substitute “mortgage”.

[SECTION 107]

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 108

85. In page 66, subsection (2)(a), line 2, after “lease,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

86. In page 66, lines 20 to 23, to delete subsection (5) and substitute the following:

“(5) The power of leasing conferred by this section applies only to mortgages created after the commencement of this Part.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 109

87. In page 66, subsection (1)(a), line 27, after “circumstances,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 110

88. In page 67, lines 9 to 16, to delete subsections (1) and (2) and substitute the following:

“(1) Subject to *subsection (2)*, a mortgagor or mortgagee in possession (or after the mortgagee has appointed a receiver and so long as the receiver acts, the receiver) may accept a surrender of a lease previously granted under *section 108* or as authorised by the terms of the mortgage, whether the surrender relates to the whole or part only of the land leased.

(2) *Subsection (1)* applies only where the surrender of the previous lease is for the purpose of granting a new lease under *section 108* or as authorised by the terms of the mortgage.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

89. In page 67, subsection (3)(c)(i), line 29, after “accepted,” to insert “and”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

90. In page 67, line 41, to delete subsection (6).

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 112

Section proposed to be deleted.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 113

91. In page 68, lines 19 to 21, to delete subsection (1) and substitute the following:

“(1) A creditor who has obtained a judgment against a person may apply to the Property Registration Authority to register a judgment mortgage against that person’s estate or interest in land.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

92. In page 68, between lines 23 and 24, to insert the following subsection:

[SECTION 113]

“(3) A judgment mortgage shall lapse after the expiration of 6 years after it is registered in the Registry of Deeds.”.

—Charles Flanagan.

SECTION 114

93. In page 68, before section 114, to insert the following new section:

“Effect of registration.

[JMA 1850, ss. 7 and 8]

[JMA 1850, s. 8]

114.—(1) Registration of a judgment mortgage under *section 113* operates to charge the judgment debtor's estate or interest in the land with the judgment debt and entitles the judgment mortgagee to apply to the court for an order under this section.

(2) On such an application the court may make—

- (a) an order for the taking of an account of other rights or incumbrances affecting the land, if any, and the making of inquiries as to the respective priorities of any such rights or incumbrances,
- (b) an order for the sale of the judgment debtor's estate or interest in the land, and where appropriate, the distribution of the proceeds of sale,
- (c) such other order for enforcement of the judgment mortgage as the court thinks appropriate.

(3) The judgment mortgage is subject to any right or incumbrance affecting the judgment debtor's land, whether registered or not, at the time of its registration.

(4) For the purposes of this section, a right or incumbrance does not include a claim made in an action to a judgment debtor's estate or interest in land (including such an estate or interest which a person receives, whether in whole or in part, by an order made in the action) whether by way of claim or counterclaim in the action, unless the claim seeks an order—

- (a) under the Act of 1976, the Act of 1995 or the Act of 1996, or
- (b) specifically against that estate or interest in land.

(5) *Section 71* applies to a voluntary conveyance of land made by the judgment debtor before the creditor registers a judgment mortgage against that land under *section 113* as if the creditor were a purchaser for the purposes of *section 71*.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 114 of the Bill.*]

94. In page 69, subsection (4), between lines 7 and 8, to insert the following:

“(b) A judgment mortgage cannot be registered against a property which is a family home unless the debt has been incurred by both spouses.”.

—Charles Flanagan.

SECTION 117

95. In page 69, before section 117, to insert the following new section:

Interpretation of
Part 11.

117.—In this Part—

“manner” includes form;

“prescribed” means prescribed by rules of court;

“register” means the register of *lis pendens* maintained under *section 118***.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: The proposed new Part comprehends the inclusion of amendment numbers 96, 97, 98, 99, 100 and 101.]

[**Note: This is the appropriate reference if amendment number 96 is accepted.]

96. In page 69, before section 117, to insert the following new section:

“Register of *lis pendens*.

118.—(1) A register of *lis pendens* affecting land shall be maintained in the prescribed manner in the Central Office of the High Court.

[JA 1844, s. 10]

(2) The following may be registered as a *lis pendens*:

(a) any action in the Circuit Court or the High Court in which a claim is made to an estate or interest in land (including such an estate or interest which a person receives, whether in whole or in part, by an order made in the action) whether by way of claim or counterclaim in the action; and

(b) any proceedings to have a conveyance of an estate or interest in land declared void.

(3) Such particulars as may be prescribed shall be entered in the register.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

“Cancellation of
entry in register.

97. In page 69, before section 117, to insert the following new section:

[JRA 1871, s. 21]

119.—An entry of a *lis pendens* in the register shall be cancelled—

(a) with the consent, given in the prescribed manner, of the person on whose application it was registered, or

(b) upon the lodgement in the Central Office of the High Court of a notice, given in the prescribed manner, of an order under *section 120** vacating the *lis pendens*.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: This is the appropriate reference if amendment number 98 is accepted.]

98. In page 69, before section 117, to insert the following new section:

“Court order to
vacate *lis pendens*.

120.—Subject to *section 121**, a court may make an order to vacate a *lis pendens* on application by—

[LPA 1867, s. 2]

(a) the person on whose application it was registered, or

[SECTION 117]

(b) any person affected by it, on notice to the person on whose application it was registered—

(i) where the action to which it relates has been discontinued or determined, or

(ii) where the court is satisfied that there has been an unreasonable delay in prosecuting the action or the action is not being prosecuted *bona fide*.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: This is the appropriate reference if amendment number 99 is accepted.]

99. In page 69, before section 117, to insert the following new section:

“Transitional.

121.—A court shall not under *section 120** vacate a *lis pendens*, registered under section 10 of the Judgments (Ireland) Act 1844 before the repeal of that section, on a ground other than one on which the *lis pendens* could have been vacated immediately before that repeal.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: This is the appropriate reference if amendment number 98 is accepted.]

100. In page 69, before section 117, to insert the following new section:

“Protection of purchasers.

[JMA 1850, s. 5]

122.—A *lis pendens* does not bind a purchaser of unregistered land without actual knowledge of it unless it has been registered in the Central Office of the High Court within 5 years before the making of the conveyance to the purchaser.”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

101. In page 69, before section 117, to insert the following new section:

“Amendment of Second Schedule to Courts and Court Officers Act 1995.

123.—The Courts and Court Officers Act 1995 is amended, in the Second Schedule, in paragraph 1, by substituting the following for subparagraph (xxiv):

“(xxiv) An order under *section 120** of the *Land and Conveyancing Law Reform Act 2009*.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: This is the appropriate reference if amendment number 98 is accepted.]

102. In page 69, before section 117, but in Part 11, to insert the following new section:

“Amendment of section 3.

117.—Section 3 (interpretation) of the Act of 1964 is amended in subsection (1)

(a) by the insertion of the following definitions:

“ ‘instrument’ has the meaning given to it by *section 3* of the *Land and Conveyancing Law Reform Act 2009*;

‘owner’ includes full owner;”

[SECTION 117]

- (b) by the substitution of “ ‘freehold land’ means land the ownership of which is an estate in fee simple in possession;” for the definition of “freehold land”,
 - (c) by the substitution of “ ‘judgment mortgage’ means a mortgage registered by a judgment creditor pursuant to *section 113* of the *Land and Conveyancing Law Reform Act 2009*;” for the definition of “judgment mortgage”,
 - (d) by the substitution of “ ‘land’ has the meaning given to it by *section 3* of the *Land and Conveyancing Law Reform Act 2009*;” for the definition of “land”,
 - (e) by the substitution of “estate” for “interest” where it first occurs in the definition of “leasehold interest”, and
 - (f) by the deletion of the definitions of “Bankruptcy Acts”, “Registry of Deeds”, “Settled Land Acts”, “settlement”, “settled land”, “tenant for life” and “trustees of the settlement”.”.
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 117 of the Bill.*]

SECTION 118

103. In page 69, before section 118, to insert the following new section:

“Substitution of section 25.

118.—The following section is substituted for section 25 (effect of failure to register where registration compulsory) of the Act of 1964:

“25.—A person shall not acquire an estate or interest in land in any case in which registration of ownership of the land is or becomes compulsory under section 23 or 24 unless the person is registered as owner of the estate or interest within 6 months after the purported acquisition or at such later time as the Authority (or, in case of refusal, the court) may sanction in any particular case, but on any such registration the person’s title shall relate back to the date of the purported acquisition, and any dealings with the land before the registration shall have effect accordingly.”.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Section proposed to be deleted.*]

SECTION 120

104. In page 70, line 11, after “the”, where it firstly occurs, to insert “estate or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

105. In page 70, line 12, after “that” to insert “estate or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

106. In page 70, line 14, after “that” to insert “estate or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

107. In page 70, line 17, after “that” to insert “estate or”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SECTION 121]

SECTION 121

Section proposed to be deleted.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

108. In page 70, between lines 25 and 26, to insert the following subsection:

“(2) A *lis pendens* shall expire after the expiration of 6 years after its registration in the Judgments Office.”.

—Charles Flanagan.

SECTION 122

109. In page 70, after section 122, to insert the following new section:

“Abolition of power to seize a tenancy.

122.—(1) The power of the sheriff, or of other persons entitled to exercise the sheriff’s powers, to seize a tenancy under a writ of *feri facias* or other process of execution is abolished except in relation to a tenancy of land that is used wholly or partly for the purpose of carrying on a business.

(2) In *subsection (1)*, “business” has the meaning given to it by section 3 of the Landlord and Tenant (Amendment) Act 1980.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Acceptance of this amendment involves the deletion of section 122 of the Bill.*]

NEW SECTIONS

110. In page 70, after line 28, to insert the following new section:

“Conclusiveness of Vesting Certificates.

123.—The Landlord and Tenant (Ground Rents) (No. 2) Act 1978 is amended by the insertion of the following new sections after section 22:

“22A.—(1) Every vesting certificate issued under Section 22 shall, subject to subsection (2), for all purposes be conclusive evidence that every assurance, proceeding, consent and act whatsoever of all interested persons which ought to have been made, given or done previously to convey effectually the fee simple free from incumbrances and any intermediate interests in the dwelling house aforesaid has been made, given or done respectively by such persons.

(2) After the expiry of twenty years from the date of issue of a vesting certificate (unless at that time there should be proceedings in being disputing the validity thereof, in which case upon the pronouncement of a final order dismissing said proceedings):

(a) a purchaser may not require the person in whose favour the vesting certificate is issued also to produce the lease whereby he became entitled to acquire the fee simple in the dwellinghouse under Part II or to deduce his leasehold title therefrom; and

(b) such vesting certificate shall, without more, in favour of a purchaser, be conclusive evidence that the person in whose favour the vesting certificate is issued is entitled to the fee simple free from incumbrances in the dwellinghouse aforesaid.

[*NEW SECTIONS*]

(3) Nothing in subsections (1) or (2) shall interfere with the jurisdiction of any court of competent jurisdiction founded upon mistake or fraud, and upon the application of any person who claims to have been wrongfully divested of any interest thereby, the court may on such ground make an order for a vesting certificate to be set aside or declared void on such terms as it thinks just.

(4) Otherwise than by a claim of mistake or fraud as aforesaid, the fee simple title vested in a person by virtue of a vesting certificate shall be unimpeachable.”

23A.—(1) For the avoidance of doubt, there exists and may be deemed always to have existed a doctrine of partial merger of estates, that is to say:

(a) where a greater estate and a lesser estate in the same lands or same part of lands meet in the same person in the same right, provided that no intermediate estate or interest should be outstanding, and subject to the intention of that person except as provided in subsection (2), the lesser estate is merged and extinguished in the greater estate in accordance with the common law rules heretofore; and

(b) a merger of estates as aforesaid occurs notwithstanding—

(i) that a person owns the lesser estate as one of several joint tenants, in which case the joint tenancy will be severed in proportion to his aliquot share and only his severed share of the lesser estate will be merged and extinguished in the greater estate leaving the interests of the other tenants otherwise intact; or

(ii) that a lessee holds a leasehold estate in part only of the lands demised by the original lease and comes into ownership of the lessor’s estate in the same part of the lands, in which case the former estate will be merged and extinguished in the latter estate, whereas the original leasehold title and all incidents thereto shall subsist and remain in force with respect to the balance of the demised lands (in so far as such original lease has not already been surrendered, merged or avoided or has otherwise ceased in any other part of the demised lands) in like manner as if such lands with respect to which the leasehold title subsists had alone been demised by the original lease.

(2) From the date of commencement of this Section, upon the acquisition of the fee simple in leased lands pursuant to the provisions of the Landlord and Tenant (Ground Rents) Act 1967 or the Landlord and Tenant (Ground Rents) (No. 2) Act 1978, a lessee’s leasehold estate shall immediately be merged and extinguished in the fee simple without reference to the intention of the lessee.

(3) Where prior to the date of commencement of this Section a lessee has acquired the fee simple in leased lands pursuant to the provisions of the Landlord and Tenant (Ground Rents) Act 1967 or the Landlord and Tenant (Ground Rents) (No. 2) Act 1978, after said date any transaction whatsoever which purports to transact on the lands as if the leasehold estate may not have been merged and extinguished in the fee simple shall to that extent be void. This subsection shall operate without prejudice to the validity of transactions completed before said date.

[*NEW SECTIONS*]

(4) Where the root of a vendor’s fee simple title in a dwellinghouse is a vesting certificate issued under section 22 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 and less than twenty years has expired since the date of issue of such certificate, nothing in subsections (2) or (3) shall prevent a purchaser from requiring the vendor to produce the lease whereby he or his predecessor in title became entitled to acquire the fee simple in the dwellinghouse under Part II of the 1978 Act or to deduce his leasehold title therefrom.”.”.

—Charles Flanagan.

111. In page 70, after line 28, to insert the following new section:

“Limitation period for challenges to conveyances.

123.—Section 54 of the Family Law Act 1995 is amended by the insertion of a new subsection (4) as follows:

“(4) Nothing in this section shall permit the institution of proceedings to challenge a conveyance after the expiration of 6 years from the date of the conveyance.”.”.

—Charles Flanagan.

SCHEDULE 1

112. In page 72, between lines 12 and 13, to insert the following:

“

Courts (Supplemental Provisions) Act 1961	Third Schedule	<p>In column (2) at reference number 19, the insertion of the following after paragraph (c):</p> <p>“(d) under <i>sections 91, 94 and 114 of the Land and Conveyancing Law Reform Act 2009</i>”.</p> <p>In column (2) at reference number 22, the insertion of “and under <i>section 53 of the Land and Conveyancing Law Reform Act 2009</i>” after “proceedings for specific performance of contracts”.</p> <p>In column (2) at reference number 23, the substitution of “Proceedings under <i>sections 29, 33, 48, 65, and 81 of the Land and Conveyancing Law Reform Act 2009</i>” for “Proceedings for the partition or sale of land”.</p> <p>In column (2) at reference number 26, the insertion of “<i>Parts 4 and 5 of the Land and Conveyancing Law Reform Act 2009</i> and” after “Proceedings under”.</p>
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—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

113. In page 72, to delete lines 19 to 32 and substitute the following:

[SCHEDULE 1]

“

Registration of Title Act 1964	Section 24	In subsection (1), the substitution of “on and after” for “on or after”.
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”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

114. In page 72, to delete lines 47 to 50 and substitute the following:

“

	Section 51	In subsection (1), the substitution of “A” for “Subject, in the case of a limited owner, to the Settled Land Acts, a”. In subsection (2), the deletion of “or in such other form as may appear to the Authority to be sufficient to convey the land,”.
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”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

115. In page 73, to delete lines 6 to 14 and substitute the following:

“

[SCHEDULE 1]

	<p>Section 61</p>	<p>In subsection (3)(a), the deletion of—</p> <p>(a) “full or limited”,</p> <p>(b) “, as the case may be”.</p>
	<p>Section 62</p>	<p>In subsection (4), the deletion of “full owner or limited”.</p> <p>In subsection (2), the deletion of “(or an instrument in such other form as may appear to the Authority to be sufficient to charge the land, provided that such instrument shall expressly charge or reserve out of the land the payment of the money secured)”.</p> <p>In subsection (6), the substitution of—</p> <p>(a) “legal mortgage under <i>part 9 of the land and conveyancing law reform act 2009</i>” for “mortgage by deed within the meaning of the Conveyancing Acts”,</p> <p>(b) “under such a mortgage” for “under a mortgage by deed”.</p>
	<p>Section 64</p>	<p>In subsection (2), the deletion of “or in such other form as may appear to the Authority to be sufficient to transfer the charge.”.</p>
	<p>Section 100</p>	<p>In subsection (1), the substitution of “any” for “the person who ought to be registered under this act, or as to any other”.</p> <p>In subsection (2), the deletion of “(including a limited owner exercising powers under the Settled Land Acts or this Act)”.</p>
	<p>Section 103</p>	<p>In subsection (4), the deletion of “or, in the case of settled land, as assignees of the registered owner”.</p>
	<p>Section 123</p>	<p>In subsection (6), the substitution of “instruments” for “those”.</p>

[SCHEDULE 1]

”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

116. In page 76, to delete lines 9 to 16 and substitute the following:

“

Registration of Deeds and Title Act 2006	Section 11	In subsection (6), the insertion of “and are eligible for reappointment” after “appointment”.
	Section 12	In subsection (3), the deletion of “for one further term”.
	Section 32	In subsection (1), the substitution of— (a) “(g) an application to register a judgment mortgage under section 113 of the <i>Land and Conveyancing Law Reform Act 2009</i> ,” for paragraph (g) of the definition of “deed”, (b) “ ‘land’ has the meaning given to it by section 3 of the <i>Land and Conveyancing Law Reform Act 2009</i> ,” for the definition of “land”. The insertion of “of the Act of 1964” after “registration”).
	Section 55	The insertion of “of the Act of 1964” after “registration”).

”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SCHEDULE 2

117. In page 76, line 21, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

118. In page 76, line 31, to delete “sess. 2”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

119. In page 76, lines 36 to 40, to delete all words from and including “Section” in line 36, down to and including “land” and substitute the following:

“

		In section 2, the words “or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them,”.
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”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SCHEDULE 2]

120. In page 77, line 1, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

121. In page 77, line 42*, after “Edw. 1” to insert “Stat. Westm. sec.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: A printing error has resulted in incorrect line references in page 77 of the Bill. The line reference in this amendment relates to the actual number of lines in page 77 of the Bill.]

122. In page 77, lines 44* and 45*, to delete “cc 1-3” and substitute “Stat. d’ni R. de t’ris, & c.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: A printing error has resulted in incorrect line references in page 77 of the Bill. The line reference in this amendment relates to the actual number of lines in page 77 of the Bill.]

123. In page 78, line 8, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

124. In page 78, between lines 23 and 24, to insert the following:

“

3 & 4 Will. 4 c. 106	Inheritance Act 1833	The whole Act so far as unrepealed
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”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

125. In page 78, line 26, after “Tithes” to insert “Act 1835”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

126. In page 78, between lines 27 and 28, to insert the following:

“

5 & 6 Will. 4 c. 75	Tithing of Turnips Act 1835	The whole Act so far as unrepealed
6 & 7 Will. 4 c. 70	Sites for Schoolrooms Act 1836	The whole Act so far as unrepealed

”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

127. In page 78, line 37, after “Copyhold” to insert “Act 1844”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

128. In page 78, between lines 37 and 38, to insert the following:

“

7 & 8 Vic. c. 90	Judgments (Ireland) Act 1844	Section 10
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”

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

129. In page 79, line 1, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[SCHEDULE 2]

130. In page 79, line 5, to delete “11 & 12” and substitute “10 & 11”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

131. In page 79, line 39, to delete “in Ireland” and substitute “Act 1854”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

132. In page 79, lines 41 and 42, to delete “Act for Religious Purposes in Ireland” and substitute “for Religious Worship in Ireland Act”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

133. In page 79, between lines 44 and 45, to insert the following:

19 & 20 Vic. c. 9	Public Money Drainage Act 1856	The whole Act so far as unrepealed
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—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

134. In page 80, line 1, to delete “or Subject”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

135. In page 80, between lines 28 and 29, to insert the following:

28 & 29 Vic. c. 53	Drainage and Improvement of Lands Supplemental Act (No. 2 Ireland) 1865	The whole Act
28 & 29 Vic. c. 78	Mortgage Debenture Act 1865	The whole Act
28 & 29 Vic. c. 101	Land Debentures (Ireland) Act 1865	The whole Act

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

136. In page 80, between lines 32 and 33, to insert the following:

29 & 30 Vic. c. 49	Drainage Maintenance Act 1866	The whole Act
29 & 30 Vic. c. 61	Drainage and Improvement of Lands Supplemental Act (Ireland) 1866	The whole Act

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

137. In page 80, between lines 36 and 37, to insert the following:

30 & 31 Vic. c. 43	Drainage and Improvement of Lands Supplemental Act (Ireland) 1867	The whole Act
30 & 31 Vic. c. 47	Lis Pendens Act 1867	The whole Act so far as unrepealed
30 & 31 Vic. c. 139	Drainage and Improvement of Lands Supplemental Act (Ireland) (No. 2) 1867	The whole Act

[SCHEDULE 2]

31 & 32 Vic. c. 3	Drainage and Improvement of Lands Supplemental Act (Ireland) (No. 3) 1867	The whole Act
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—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

138. In page 80, between lines 45 and 46, to insert the following:

34 & 35 Vic. c. 72	Judgments Registry (Ireland) Act 1871	Section 21
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—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

139. In page 81, line 1, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

140. In page 81, line 7, to delete “Act”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

141. In page 81, line 28, after “4,” to insert “6,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

142. In page 81, line 58, after “The whole Act”, to insert “so far as unrepealed”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

143. In page 82, line 1, to delete “or Subject”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

144. In page 82, line 19*, after “62(3),” to insert “62(7),”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: A printing error has resulted in incorrect line references in page 82 of the Bill. The line reference in this amendment relates to the actual number of lines in page 82 of the Bill.]

145. In page 82, line 20*, to delete “72(1)(j),”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: A printing error has resulted in incorrect line references in page 82 of the Bill. The line reference in this amendment relates to the actual number of lines in page 82 of the Bill.]

TITLE

146. In page 13, lines 10 and 11, to delete “TO AMEND THE REGISTRATION OF TITLE ACT 1964” and substitute the following:

“TO PROVIDE FOR THE VARIATION OF TRUSTS, TO MODERNISE THE LAW RELATING TO *LIS PENDENS*, TO AMEND THE REGISTRATION OF DEEDS AND TITLE ACTS 1964 AND 2006 AND CERTAIN OTHER ENACTMENTS”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.