



BILLE NA dTITHE (FORÁLACHA ILGHNÉITHEACHA) 2008
HOUSING (MISCELLANEOUS PROVISIONS) BILL 2008

Mar a leasaíodh i gCoiste
As amended in Committee

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BILLE NA dTITHE (FORÁLACHA ILGHNÉITHEACHA) 2008

HOUSING (MISCELLANEOUS PROVISIONS) BILL 2008

BILL

entitled

5 AN ACT TO MAKE FURTHER PROVISION FOR THE FUNCTIONS OF HOUSING AUTHORITIES; TO PROVIDE FOR THE MAKING OF HOUSING SERVICES PLANS; TO PROVIDE FOR THE CARRYING OUT OF SOCIAL HOUSING ASSESSMENTS FOR THE PURPOSES OF
10 SOCIAL HOUSING SUPPORT AND THE ALLOCATION OF DWELLINGS; TO PROVIDE FOR RENTAL ACCOMMODATION ARRANGEMENTS; TO PROVIDE FOR THE MANAGEMENT AND CONTROL FUNCTIONS OF HOUSING AUTHORITIES; TO PROVIDE FOR THE MAKING OF AN ANTI-SOCIAL BEHAVIOUR STRATEGY; TO
15 MAKE FURTHER PROVISION FOR TENANT PURCHASE OF DWELLINGS BY INCREMENTAL PURCHASE ARRANGEMENTS; TO MAKE FURTHER PROVISION RELATING TO STANDARDS FOR RENTED
20 HOUSES AND TO PROVIDE FOR THE GIVING OF IMPROVEMENT NOTICES AND PROHIBITION NOTICES TO LANDLORDS; TO PROVIDE FOR THE PAYMENT OF A GRANT TOWARDS THE COST OF PROVISION OF AFFORDABLE HOUSES; TO PROVIDE FOR
25 THE REPAYMENT OF CERTAIN AMOUNTS THAT MAY BECOME PAYABLE TO HOUSING AUTHORITIES ON THE SUBSEQUENT PURCHASE OF THE PURCHASER'S INTEREST IN A SHARED OWNERSHIP LEASE OR THE SALE OF THAT INTEREST; FOR THOSE AND OTHER
30 PURPOSES TO AMEND AND EXTEND THE HOUSING ACTS 1966 TO 2004, TO AMEND THE HOUSING FINANCE AGENCY ACT 1981, THE PLANNING AND DEVELOPMENT ACT 2000, THE CIVIL REGISTRATION ACT 2004, THE RESIDENTIAL TENANCIES ACT 2004
35 AND THE SOCIAL WELFARE ACTS AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

Short title,
collective citation,
construction and
commencement.

1.—(1) This Act may be cited as the Housing (Miscellaneous Provisions) Act 2008.

(2) The Housing Acts 1966 to 2004 and this Act may be cited together as the Housing Acts 1966 to 2008 and shall be construed together as one Act. 5

(3) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, including the application of *section 7* or *8* to different enactments specified in *Schedule 1* or *Schedule 2* and to different provisions of those enactments. 10

Interpretation.

2.—(1) In this Act— 15

“Act of 1988” means the Housing Act 1988;

“Act of 1992” means the Housing (Miscellaneous Provisions) Act 1992;

“Act of 1997” means the Housing (Miscellaneous Provisions) Act 1997; 20

“Act of 2002” means the Housing (Miscellaneous Provisions) Act 2002;

“affordable housing” means affordable housing provided under Part V of the Planning and Development Act 2000 or Part 2 of the Act of 2002; 25

“allocation scheme” has the meaning given to it by *section 22*;

“anti-social behaviour” has the same meaning as in section 1 of the Act of 1997;

“approved body” means a body standing approved of for the purposes of section 6 of the Act of 1992; 30

“caravan” has the same meaning as in section 13 of the Act of 1988;

“*Chapter 4* tenancy agreement” has the meaning given to it by *section 25* and references to “*Chapter 4* tenancy” shall be construed accordingly;

“development plan” has the same meaning as in section 2 of the Planning and Development Act 2000; 35

“dwelling” includes any building or part of a building occupied or intended for occupation as a normal place of residence and includes any out-office, yard, garden or other land appurtenant thereto or usually enjoyed therewith and includes a house, flat, apartment, maisonette or hostel; 40

“estate management” has the same meaning as in section 1 of the Act of 1997;

- “executive function” has the same meaning as in section 2 of the Local Government Act 2001;
- “household” means, subject to *section 20*, a person who lives alone or 2 or more persons who live together;
- 5 “housing action programme” has the meaning given to it by *section 18*;
- “housing authority” has the same meaning as in section 23 of the Act of 1992;
- “housing services” shall be read in accordance with *section 10*;
- 10 “housing services plan” has the meaning given to it by *section 14*;
- “housing strategy” has the same meaning as in section 93 of the Planning and Development Act 2000;
- “housing support” shall be read in accordance with *section 10(a)*;
- “local authority” means a local authority for the purposes of the
- 15 Local Government Act 2001;
- “manager” has the same meaning as in section 2 of the Local Government Act 2001;
- “market rent” has the same meaning as in section 24 of the Residential Tenancies Act 2004;
- 20 “Minister” means the Minister for the Environment, Heritage and Local Government;
- “prescribed” means prescribed by regulations made by the Minister under this Act;
- “Principal Act” means the Housing Act 1966;
- 25 “public private partnership arrangement” has the same meaning as in section 3 of the State Authorities (Public Private Partnership Arrangements) Act 2002;
- “refurbishment” in relation to a dwelling or other building, includes the enlargement, improvement, adaptation or reconstruction of such
- 30 dwelling or other building;
- “rental accommodation availability agreement” has the meaning given to it by *section 24*;
- “rent scheme” has the meaning given to it by *section 31*;
- “reserved function” has the same meaning as in section 2 of the Local
- 35 Government Act 2001;
- “social housing assessment” has the meaning given to it by *section 20*;
- “social housing support” shall be read in accordance with *section 19*.
- (2) In this Act references to “borough council”, “county council” and “town council” shall be read in accordance with the Local
- 40 Government Act 2001.

3.—(1) The Minister may make regulations prescribing any matter referred to in this Act as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any of its provisions to have full effect.

(2) Regulations made under this Act may— 5

- (a) contain such incidental, supplementary, consequential or transitional provisions as appear to the Minister to be necessary for the purposes of the regulations, and
- (b) may be expressed to apply either generally or to specified housing authorities or areas or to housing authorities, 10
areas, dwellings, tenancies, loans, mortgages, persons, households, works or any other matter of a specified class or classes, denoted by reference to such matters to which the provision or provisions of this Act under which the regulations are made relate, as the Minister considers 15
appropriate, and different provisions of such regulations may be expressed to apply in relation to different housing authorities or areas or different classes of housing authorities, areas, dwellings, tenancies, loans, mortgages, persons, households, works or other matters. 20

(3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 25

4.—(1) The Minister may, from time to time, as he or she considers appropriate, give general policy directions in writing to a housing authority in relation to the performance by the housing authority 30
of any of its functions under the *Housing Acts 1966 to 2008* and the housing authority shall comply with any such directions.

(2) The Minister may, by direction in writing, revoke or amend a direction under *subsection (1)*, including a direction under this subsection. 35

(3) Whenever the Minister gives a direction under this section, he or she shall publish the direction or cause it to be published in the manner he or she considers appropriate.

(4) A housing authority shall make available for inspection by members of the public, without charge, on the Internet and at its 40
offices and such other places as it considers appropriate, during normal working hours, a copy of any direction given to it under this section.

5.—(1) The Minister may, from time to time, as he or she considers appropriate, issue to housing authorities such guidelines in 45
relation to the performance of their functions under the *Housing Acts 1966 to 2008* as he or she considers appropriate and housing authorities shall have regard to such guidelines in the performance of those functions.

(2) The Minister shall publish or cause to be published, in the manner he or she considers appropriate, any guidelines issued under this section.

5 (3) A housing authority shall make available for inspection by members of the public, without charge, on the Internet and at its offices and such other places as it considers appropriate, during normal working hours, a copy of any guidelines issued to it under this section.

10 6.—Without prejudice to *section 12*, *sections 4* and *5* shall not be construed as enabling the Minister to exercise any power or control in relation to any particular case with which a housing authority is or may be concerned. Limitation on Ministerial power.

7.—The Acts specified in *column (3)* of *Schedule 1* are repealed to the extent specified in *column (4)* of that Schedule. Repeals.

15 8.—The Acts specified in *Schedule 2* are amended as indicated in that Schedule. Consequential amendments.

9.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

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PART 2

FUNCTIONS OF HOUSING AUTHORITIES

CHAPTER 1

Housing Services

25 10.—In performing its functions under the *Housing Acts 1966 to 2008*, a housing authority may provide housing services, including, but not necessarily limited to, all or any of the following— Provision of housing services.

(a) housing support provided to households for the purposes of meeting their accommodation needs, including:

(i) social housing support;

30 (ii) affordable housing;

(iii) the granting of shared ownership leases under section 3 of the Act of 1992;

(iv) the sale, or consent to the sale, of dwellings under section 90 of the Principal Act;

35 (v) subsidies payable under section 4 of the Act of 1992 or section 7 of the Act of 2002;

(vi) loans made under section 11 of the Act of 1992 or section 25(1) of the Housing (Traveller Accommodation) Act 1998;

- (vii) grants for works of improvement or adaptation to houses under section 5 of the Act of 1992;
- (viii) grants and other assistance for the provision of new houses or improvement works to houses under section 6 of the Housing (Miscellaneous Provisions) Act 1979; 5
- (ix) services provided to homeless persons under section 10 of the Act of 1988;
- (x) the provision of sites under section 57 of the Principal Act, 10
- (b) the management, maintenance and refurbishment under *section 28* of any dwelling, building or land of which the housing authority is the owner or which is under its management and control, and
- (c) the reconstruction or improvement under section 12 of the Act of 1988 of certain houses provided by housing authorities. 15

Provision of ancillary services.

11.—(1) In this section “ancillary services” include roads, shops, playgrounds, places of recreation, parks, allotments, open spaces, sites for places of worship, factories, schools, offices and other buildings or land and other such works or services, as will, in the opinion of a housing authority, serve a beneficial purpose either in connection with the requirements of the households for which the dwellings concerned are provided or in connection with the requirements of other households. 20 25

(2) In providing housing services and in connection with dwellings provided, to be provided or which, in the opinion of the housing authority will in the future require to be provided, a housing authority may provide and, if it considers appropriate, maintain in good order and repair, the ancillary services. 30

(3) For the purposes of *subsection (2)*—

- (a) reference to the provision of dwellings includes dwellings provided, or maintained, on behalf of a housing authority pursuant to arrangements with an approved body, or public private partnership arrangements, and 35
- (b) reference to the provision and maintenance of ancillary services includes ancillary services provided pursuant to arrangements with an approved body, or public private partnership arrangements.

Funding for housing services.

12.—(1) The Minister may, for the purposes of the provision of housing services, with the consent of the Minister for Finance, pay to a housing authority, out of moneys provided by the Oireachtas, a grant or subsidy in respect of all or any one or more of the following: 40

- (a) the provision of dwellings or sites by the authority;
- (b) the refurbishment of dwellings provided by the authority; 45
- (c) the provision of caravans, or the provision, improvement or management by the authority of sites for caravans

referred to in section 13 of the Act of 1988 for persons to whom that section applies;

(d) the acquisition of land for the provision of dwellings or sites;

5 (e) the provision of ancillary services in connection with the provision or improvement of dwellings or sites;

(f) subject to such regulations as may be made under this section, the provision of assistance to an approved body under section 6 of the Act of 1992;

10 (g) such measures as may be taken by the housing authority pursuant to its housing services plan for the purposes of improving its housing services.

(2) A grant or subsidy shall not be paid under this section in respect of a dwelling, site or works unless the relevant dwelling, site
15 or works comply on completion with such conditions, if any, as may, from time to time, be determined by the Minister for the purposes of this section in relation to standards of construction and works and the provision of water, sewerage and other services in dwellings or to sites.

20 (3) A subsidy under *subsection (1)* in respect of loan charges incurred in the provision of any of the housing services referred to in that subsection may be made either to the housing authority concerned or, on its behalf, to the person who made the relevant loan in respect of which the loan charges were incurred.

25 (4) The Minister may make regulations in relation to the payment of a grant or subsidy under *subsection (1)(f)* providing for all or any one or more of the following:

30 (a) the class or classes of accommodation in respect of which the grant or subsidy may be paid and the class or classes of households for whom such accommodation is provided;

(b) the amount of the grant or subsidy;

(c) requirements in relation to—

35 (i) the assistance in respect of which the grant or subsidy may be paid,

(ii) the payment of the grant or subsidy,

(iii) the financial and other circumstances of households occupying accommodation in respect of which the grant or subsidy may be paid,

40 (iv) the occupation and maintenance of accommodation in respect of which the grant or subsidy may be paid,

45 (v) the floor area of accommodation in respect of which the grant or subsidy may be paid, measured in such manner as may, from time to time, be determined by the Minister,

(vi) standards of construction, works and repair and the availability in accommodation, in respect of which

the grant or subsidy may be paid, of water, sewerage and other services, and

- (vii) the payment under any enactment (including this Act) of any other grant, subsidy or assistance in respect of the accommodation concerned. 5

Housing authority resources.

13.—Any moneys accruing to a housing authority from—

- (a) the sale of a dwelling owned by the authority, including a sale under section 90 of the Principal Act or *Part 3*,
(b) the resale of a dwelling under *section 40*,
(c) an approved body in respect of the resale of a dwelling referred to in *paragraph (b)*, 10
(d) the resale of a dwelling under section 9 of the Act of 2002,
(e) the purchase of the interest of the housing authority or the sale of a dwelling, as the case may be, under section 10 of the Act of 2002, 15
(f) the resale of certain sites, or dwellings on such sites, under *section 43*, or
(g) the repayment of a grant to which *section 44* applies,

shall be accounted for by the housing authority in a separate account and, subject to the prior approval of the Minister, may be used for the provision of housing or for the refurbishment or maintenance of existing housing, or any other related purposes. 20

CHAPTER 2

Housing Services Plan

Obligation to make housing services plan.

14.—(1) Each housing authority shall make a plan (in this Act referred to as a “housing services plan”) setting out the objectives which the housing authority considers to be reasonable and necessary for the provision of housing services having regard to the requirements of the housing strategy or strategies relating to housing supports for its administrative area. 25
30

(2) A housing services plan shall be in writing and shall specify how the housing authority proposes to provide housing services.

(3) Subject to *subsection (5)*, a housing authority shall make a housing services plan not later than 6 months after the date on which the current development plan is made. 35

(4) A housing services plan shall relate to the remaining period of the housing authority’s current development plan.

(5) (a) The Minister may direct a housing authority or housing authorities to make a housing services plan relating to the remaining period of the development plan in operation, on the coming into operation of this section, in respect of the administrative area concerned and this Chapter shall apply to the preparation and making of such a plan. 40

(b) A housing authority shall comply with any direction given to it under *paragraph (a)*.

(6) The preparation, making, adoption or variation of a housing services plan, or draft plan, as the case may be, is a reserved function.

5 **15.—**(1) In making a housing services plan, a housing authority shall, in particular, have regard to the following: Content of housing services plan.

(a) the development plan or plans for its administrative area;

(b) any summary or summaries of social housing assessments prepared under *section 21*;

10 (c) the demand for affordable housing in its administrative area;

(d) the accommodation programme or programmes adopted for its administrative area in accordance with section 7 of the Housing (Traveller Accommodation) Act 1998;

15 (e) the need to ensure that housing services are delivered in a manner which promotes sustainable communities, including but not necessarily limited to the need to—

(i) counteract undue segregation in housing between persons of different social backgrounds, and

20 (ii) ensure that a mixture of dwelling types and sizes and of classes of tenure is provided to reasonably match the different types of housing support required in its administrative area;

(f) its anti-social behaviour strategy (if any) under *section 35*;

25 (g) any directions given by the Minister under *subsection (2)*;

(h) the matters specified in section 69 of the Local Government Act 2001 to which local authorities are required to have regard in performing their functions.

30 (2) (a) The Minister may direct a housing authority to include in its housing services plan such information as he or she considers necessary, including, but not necessarily limited to, information on, and priorities relating to, each of the following:

(i) the provision of appropriate housing supports;

35 (ii) proposed measures to ensure that housing supports are delivered in a manner which promotes sustainable communities;

40 (iii) the quality, standards and condition of housing owned by the housing authority, and priorities for refurbishment;

(iv) plans for the regeneration of the administrative area concerned or any part of it;

(v) the policies of the housing authority relating to the management and maintenance of dwellings or sites owned or controlled by it.

(b) A housing authority shall comply with any direction given to it under *paragraph (a)*. 5

(3) A housing services plan shall include the summary or summaries, prepared under *section 21*, of the social housing assessments carried out in respect of the administrative area concerned.

Preparation of draft plan and making of plan.

16.—(1) A housing authority shall prepare a draft of the housing services plan and shall send a copy of the draft housing services plan to— 10

(a) the Minister,

(b) every local authority whose administrative area adjoins, or is contained in, the administrative area of the authority preparing the draft plan, 15

(c) the Health Service Executive,

(d) approved bodies engaged in the provision of accommodation or shelter in the administrative area concerned,

(e) any local traveller accommodation consultative committee in the administrative area concerned appointed under *section 21* of the Housing (Traveller Accommodation) Act 1998, and 20

(f) such local community bodies in the administrative area concerned and any other person, as the housing authority considers appropriate. 25

(2) Written submissions or observations with respect to the draft housing services plan may be made by the persons specified in *subsection (1)* to the housing authority within 6 weeks from the date on which the draft plan is sent under *subsection (1)*.

(3) Where the Minister considers that any draft housing services plan fails to adequately take account of any of the matters specified in *section 15(1)*, the Minister may, within the period specified in *subsection (2)*, for stated reasons, direct the housing authority concerned to take specified measures to ensure that the housing services plan, when made, takes adequate account of those matters and the housing authority shall comply with any such direction. 30 35

(4) Not later than 3 weeks after the end of the period specified in *subsection (2)*, the manager shall prepare and submit to the housing authority a report on—

(a) any submissions or observations made under *subsection (2)*, 40

(b) the directions (if any) of the Minister under *subsection (3)* and the stated reasons for those directions, and

(c) any aspect of the draft housing services plan (other than aspects of the draft plan the subject of any ministerial direction under *subsection (3)*) that, in his or her opinion, 45

fails to adequately take account of any of the matters specified in *section 15(1)*.

5 (5) The housing authority shall, having taken account of the directions of the Minister (if any) under *subsection (3)* and the manager's report under *subsection (4)*, adopt the housing services plan, with or without modification, within 6 weeks after the submission of the manager's report.

(6) The housing authority shall—

10 (a) give a copy of the housing services plan to the Minister as soon as practicable after it is made,

(b) make the housing services plan available for inspection on request by any person, without charge, at its offices and such other places as it considers appropriate, during normal office hours,

15 (c) on request by any person, provide a copy of the housing services plan at a price not exceeding the reasonable cost of reproduction, and

(d) publish and maintain a copy of the housing services plan on the Internet for the period of the plan.

20 **17.—(1)** Where the manager considers that there has been a change in any of the matters specified in *section 15(1)* that significantly affects the housing services plan, including any adjustment of a housing strategy pursuant to *section 95(3)* of the Planning and Development Act 2000, the manager shall submit a report on the
25 matter to the members of the housing authority and, where the manager considers it necessary and appropriate, he or she may recommend that the housing services plan be varied accordingly and the housing authority may, having taken account of any such recommendations, as it considers appropriate, decide to vary the plan or
30 part or parts thereof accordingly.

Variation of housing services plan.

(2) Where the Minister considers that there has been a change in circumstances that significantly affects all or any part or parts of one or more than one housing services plan, he or she may give a direction requiring the housing authority or authorities concerned to vary
35 the plan or plans or part or parts thereof accordingly and the housing authority or authorities, as the case may be, shall comply with any such direction.

(3) *Section 16* applies to the variation of a plan as it applies to the preparation and adoption of a plan, with any necessary modifications.
40

18.—(1) The manager shall, from time to time, in such form and for such period as the Minister may direct, prepare a programme (in this Act referred to as a “housing action programme”) for implementation of the housing services plan.

Housing action programme.

45 (2) A housing action programme shall—

(a) take account of the financial resources available for the period to which the programme relates, and

- (b) include such matters as the Minister may specify in a direction given under *subsection (1)*, including (except in the case of the first housing action programme) a review of progress made in the implementation of the housing services plan during the period of the previous housing action programme. 5

(3) The manager shall provide a copy of the housing action programme to the Minister, the members of the housing authority and the members of any borough council or town council situated in the administrative area of the housing authority. 10

CHAPTER 3

Social Housing Support

Provision of social housing support.

19.—(1) A housing authority may, in accordance with the *Housing Acts 1966 to 2008* and regulations made thereunder, provide, facilitate or manage the provision of social housing support. 15

(2) Without prejudice to the generality of *subsection (1)*, social housing support may include all or any of the following:

- (a) dwellings provided by a housing authority under the *Housing Acts 1966 to 2008* or provided under Part V of the Planning and Development Act 2000, other than affordable housing; 20
- (b) dwellings provided by an approved body;
- (c) the sale of a dwelling under *Part 3*;
- (d) entering into and maintaining rental accommodation availability agreements; 25
- (e) the provision of sites for caravans referred to in section 13 of the Act of 1988 and any accommodation provided to travellers under the Housing (Traveller Accommodation) Act 1998;
- (f) the provision of sites for building purposes under section 30 57 of the Principal Act.

(3) A housing authority may, in accordance with the *Housing Acts 1966 to 2008* and regulations made thereunder, for the purposes of providing social housing support to households, whether provided on a permanent or temporary basis— 35

- (a) purchase, build, lease or otherwise acquire dwellings or sites,
- (b) convert buildings, and
- (c) refurbish dwellings.

(4) In performing its functions under *subsections (2) and (3)* a housing authority shall have regard to its housing services plan and the need to— 40

- (a) counteract undue segregation in housing between persons of different social backgrounds, and

(b) ensure that a mixture of dwelling types and sizes and of classes of tenure is provided to reasonably match the requirements of households.

5 (5) A housing authority may, with the approval of the Minister, enter into a public private partnership arrangement with a person for the performance of its functions under *subsection (1)*.

10 (6) The power of a housing authority to provide dwellings and sites for building purposes under the *Housing Acts 1966 to 2008* shall, in the case of a county council, be deemed to include, and always to have included, a power to provide dwellings or sites, as the case may be, in a town listed in Part 2 of Schedule 6 of the Local Government Act 2001, as if, for the purpose of such provision, the town formed part of the administrative area of the council.

15 **20.—(1)** A reference in this section to a household shall be read as including a reference to 2 or more persons who, in the opinion of the housing authority concerned, have a reasonable requirement to live together. Social housing assessment.

20 (2) Where a household applies for social housing support, the housing authority concerned shall, subject to and in accordance with regulations made for the purposes of this section, carry out an assessment (in this Act referred to as a “social housing assessment”) of the household’s eligibility, and need for, social housing support for the purposes of determining—

- (a) whether the household is qualified for such support, and
- 25 (b) the most appropriate form of any such support.

(3) A housing authority may carry out a social housing assessment where a household has been in receipt of a supplement under section 198(3) of the Social Welfare Consolidation Act 2005 towards the amount of rent payable by the household in respect of the household’s residence for such period as may be prescribed.

30

(4) The Minister may make regulations providing for the means by which the eligibility of households for social housing support shall be determined including, but not necessarily limited to, the following:

- 35 (a) the maximum income threshold based on a household comprising one person;
- (b) the methodology according to which the threshold referred to in *paragraph (a)* shall be adjusted for households comprising more than one person;
- 40 (c) the manner in which a housing authority shall set the income threshold, having regard to the market rent in respect of, and the average purchase prices for, dwellings in its administrative area, which in any case shall not be more than the maximum income threshold referred to in *paragraph (a)*;
- 45 (d) the procedures to be applied by a housing authority for the purposes of determining a household’s eligibility by reference to income;
- (e) the availability to the household of alternative accommodation that would meet its housing need;

- (f) social housing support previously provided by any housing authority to the household which may be taken account of by a housing authority in making a determination as to the most appropriate form of social housing support for that household; 5
- (g) the period for which a household is required to be in receipt of the supplement referred to in *subsection (3)*.
- (5) A household shall not be eligible for social housing support where the household or a member of the household—
- (a) was at any time a tenant of a dwelling or site owned or provided by any housing authority under the *Housing Acts 1966 to 2008* or provided under Part V of the Planning and Development Act 2000, and 10
- (b) during the 3 years immediately before the carrying out of the social housing assessment, was in arrears of rent in respect of the dwelling or site for an accumulated period of 12 weeks or has otherwise breached a condition of the tenancy agreement in respect of such dwelling or site. 15
- (6) The Minister may make regulations providing for the matters by reference to which a household's need for social housing support and the form of such support shall be determined including, but not necessarily limited to, the following: 20
- (a) the description and classification of household need;
- (b) the description of specific accommodation requirements according to different categories of household need; 25
- (c) the description of accommodation need based on the composition of the household.
- (7) The Minister may make regulations in relation to the carrying out of social housing assessments, including, but not necessarily limited to, the following: 30
- (a) the form and manner in which a social housing assessment shall be carried out;
- (b) the period within which an application for social housing support shall be dealt with by a housing authority;
- (c) notification by the housing authority of the making of a decision in respect of an application for social housing support; 35
- (d) the frequency of reviewing and updating assessments.
- (8) In carrying out a social housing assessment under this section, a housing authority may disregard the accommodation the household is occupying where the authority has reason to believe that the household, or any member of it, has deliberately or without good and sufficient reason done or failed to do anything (other than an action or omission in good faith) in consequence of which the accommodation the household is so occupying is less suitable for its adequate housing than other accommodation which it would have been, or would be, reasonable for the household to occupy. 40 45

5 (9) When carrying out an assessment of housing need for the purposes of article 9(2)(b)(ii)(II) of the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007 (S.I. No. 412 of 2007) a housing authority shall assess only the availability to the household concerned of alternative accommodation that would meet its housing need in accordance with such regulations as may be made for the purposes of *subsection (4)(e)*.

10 (10) A household in receipt of social housing support referred to in *section 19(2)(b)*, before the commencement of this section, is deemed to have been assessed and qualified for such social housing support under this section.

21.—A housing authority shall—

Summary of social housing assessments.

15 (a) for the purposes of preparing an estimate under section 94(4)(a)(i) of the Planning and Development Act 2000 of the amount of housing required for households assessed under *section 20* as being qualified for social housing support,

(b) when preparing a draft housing services plan under *section 16*,

20 (c) when preparing an accommodation programme under section 7 of the Housing (Traveller Accommodation) Act 1998, or

(d) as the Minister may from time to time direct,

25 prepare a summary, in the prescribed form, of the social housing assessments carried out in its administrative area.

22.—(1) This section applies to—

Allocation of dwellings.

(a) dwellings provided under the *Housing Acts 1966 to 2008* or Part V of the Planning and Development Act 2000—

(i) of which a housing authority is the owner, or

30 (ii) of which the housing authority is not the owner and which are provided under a contract or lease between the housing authority and the owner concerned, including rental accommodation availability agreements,

35 and

(b) dwellings owned and provided by approved bodies to whom assistance is given under section 6 of the Act of 1992 for the purposes of such provision.

40 (2) A housing authority may allocate a dwelling under this section to a household in accordance with a scheme made under *subsection (3)*.

45 (3) A housing authority shall, not later than one year after the coming into operation of this section, in accordance with this section and any regulations made thereunder, make a scheme (in this Act referred to as an “allocation scheme”) determining the order of priority to be accorded in the allocation of dwellings to—

- (a) households assessed under *section 20* as being qualified for social housing support, and
 - (b) households, in receipt of social housing support, that have applied to the housing authority to transfer to another dwelling or to purchase a dwelling under *Part 3* and the housing authority consents to the transfer, or purchase, as the case may be. 5
- (4) The Minister may make regulations providing for the matters to be included in an allocation scheme, including the following:
- (a) the manner in which dwellings, or different categories of dwellings, are allocated to households; 10
 - (b) the order or priority in accordance with which dwellings are allocated under the allocation scheme;
 - (c) the conditions relating to refusals by a household of reasonable offers of social housing support offered in accordance with an allocation scheme by reference to the availability of social housing support in the administrative area concerned, the number of offers made to, and refusals made by, a household and the period during which those offers and refusals are made. 15 20
- (5) Having regard to *section 19(4)*, a housing authority shall make provision in its allocation scheme for the proportion of dwellings in any part or parts of its administrative area which may be reserved for all or any of the following purposes:
- (a) allocation to particular classes of household; 25
 - (b) particular forms of tenure;
 - (c) allocation to households transferring from other forms of social housing support.
- (6) An allocation scheme may include conditions subject to which the preference of a household to reside in a particular area or areas may be taken into account in allocating a dwelling to such a household, including, but not necessarily limited to, conditions relating to— 30
- (a) whether the household or any member of it currently resides, or at any time has resided, and for what period, in the area or areas concerned, 35
 - (b) the distance of the area or areas from the place of employment of any member of the household,
 - (c) whether any members of the household are attending any university, college, school or other educational establishment in the area or areas concerned, and 40
 - (d) whether any relatives of any member of the household reside in the area or areas concerned.
- (7) Notwithstanding the generality of *subsection (2)*, a housing authority may disregard the order of priority given to a household under an allocation scheme where the household is being provided with social housing support— 45

- (a) in a dwelling let to the household under a *Chapter 4* tenancy agreement having been assessed under *section 20(3)*, or
- 5 (b) arising from specified exceptional circumstances, including displacement by fire, flood or any other emergency, development, redevelopment or regeneration of an area by the housing authority, or exceptional medical or compassionate grounds.
- 10 (8) An allocation scheme may provide that the housing authority shall obtain and have regard to a report from a medical practitioner employed by the Health Service Executive in the allocation of dwellings where priority is claimed on grounds consisting of, or including, exceptional medical grounds.
- 15 (9) A housing authority may from time to time review its allocation scheme and, as it considers necessary and appropriate, amend the scheme or make a new scheme.
- (10) The making of an allocation scheme, or the amendment to such a scheme, are reserved functions.
- 20 (11) The allocation of a dwelling to a household is an executive function.
- (12) The manager shall—
- 25 (a) prepare and submit to the members of the housing authority not later than 30 April in each year a written report on allocations made under its allocation scheme by specifying the different categories of dwellings and households and the proportions of each such category, by reference to the total number of such allocations in the preceding year, and
- 30 (b) provide a copy of the report prepared under *paragraph (a)* to the Minister, if the Minister requests such a copy.
- 35 (13) Notwithstanding the repeal by this Act of section 11 of the Act of 1988, a scheme of priorities made by a housing authority under that section and in force immediately before the commencement of this section continues to have effect after such commencement and is deemed to have been made under this section until an allocation scheme under this section comes into force.
- 40 (14) A housing authority shall make a copy of its allocation scheme available for inspection by members of the public, without charge, on the Internet and at its offices and such other places as it considers appropriate, during normal working hours.
- 45 (15) Before making or amending an allocation scheme, a housing authority shall provide a draft of the scheme or amendment to the scheme, as the case may be, to the Minister, who may direct the housing authority to amend the draft scheme or draft amendment, and the housing authority shall comply with any such direction within such period as may be specified by the Minister.
- 50 (16) The Minister may, as he or she considers necessary and appropriate, direct a housing authority to amend an allocation scheme, in such manner as he or she may direct, and the housing authority shall comply with any such direction within such period as may be specified by the Minister.

(17) (a) The Minister may issue directions to a housing authority regarding the operation of an allocation scheme and the housing authority shall comply with any such direction in operating the scheme.

(b) Nothing in *paragraph (a)* shall be construed or operate to enable the Minister to direct the allocation of a dwelling to a specific household. 5

CHAPTER 4

Rental Accommodation Arrangements

Interpretation
(Chapter 4).

23.—In this Chapter— 10

“Act of 2004” means the Residential Tenancies Act 2004;

“authorised agent” has the same meaning as in the Act of 2004;

“dwelling to which this Chapter applies” means a dwelling which is the subject of a rental accommodation availability agreement;

“qualified tenant” means a household assessed under *section 20* as being qualified for social housing support; 15

“rental accommodation availability agreement” has the meaning given to it by *section 24* and references to “availability agreement” shall be construed accordingly;

“rental accommodation provider” means a person who makes a dwelling, of which he or she is the owner, available under a rental accommodation availability agreement for the purposes of letting to a qualified tenant in accordance with this Chapter, and references to “provider” shall be construed accordingly; 20

“rent contribution” has the meaning given to it by *section 25*. 25

Rental
accommodation
availability
agreement.

24.—(1) Subject to such regulations as may be made for the purposes of this section and such terms and conditions as may be prescribed, a housing authority may, by order of the manager, enter into an agreement (in this Act referred to as a “rental accommodation availability agreement”) with a rental accommodation provider pursuant to the terms and conditions of which availability agreement the provider agrees to— 30

(a) make the dwelling available for a specified period for the purposes of this Chapter, and

(b) let the dwelling pursuant to a tenancy agreement— 35

(i) to such qualified tenant as the housing authority may from time to time allocate to the tenancy in accordance with *section 22*, or to the housing authority, or

(ii) to the qualified tenant specified in the availability agreement, 40

in consideration of which availability agreement and subject to the terms and conditions thereof and the tenancy agreement, the housing authority guarantees the payment of the rent specified in the tenancy

agreement and agrees to pay any other moneys, payable by the housing authority, specified in the availability agreement or the tenancy agreement, as the case may be.

5 (2) A housing authority shall not enter into a rental accommodation availability agreement unless the provider—

10 (a) satisfies the housing authority, in accordance with regulations made for the purposes of this section, that the dwelling complies with any standards for dwellings for the time being prescribed under section 18 of the Act of 1992, and

(b) gives to the housing authority—

(i) his or her tax reference number within the meaning of section 888 of the Taxes Consolidation Act 1997, and

15 (ii) a current tax clearance certificate issued under section 1095 of the Taxes Consolidation Act 1997.

(3) A rental accommodation availability agreement shall be in writing and shall include the following information—

(a) the address of the dwelling,

20 (b) the name and address for correspondence of the provider and of the housing authority,

(c) the name and address for correspondence of the provider's authorised agent (if any),

25 (d) if the provider or his or her authorised agent, as the case may be, is a company, the registered number and registered office of the company,

(e) a description of the dwelling, indicating—

(i) the estimated floor area,

(ii) the number of bed spaces,

30 (iii) a statement as to which of the following categories it belongs, namely, a whole or part of a house, a maisonette, an apartment or a flat and, where it is within the category of a house or maisonette, an indication as to whether the house or maisonette is detached, semi-detached or terraced, and

35 (iv) the number of bedrooms,

and

(f) the term of the availability agreement.

(4) An availability agreement shall include terms and conditions relating to—

40 (a) the payment of the rent and any other moneys, payable by the housing authority, specified in the tenancy agreement,

- (b) the responsibility of the provider in relation to any works to be carried out, as are necessary to ensure that the dwelling complies with the standards for dwellings for the time being prescribed under section 18 of the Act of 1992, before the commencement of the tenancy or where there is more than one tenancy during the term of the availability agreement, before each such tenancy, 5
 - (c) the registration by the provider under Part 7 of the Act of 2004 of the tenancy or each tenancy entered into during the term of the availability agreement, 10
 - (d) such access as may reasonably be required by officers or agents authorised by the housing authority for the purposes of inspection of the dwelling during the term of the availability agreement,
 - (e) termination of the availability agreement by the housing authority or the provider, as the case may be, and 15
 - (f) such other matters as the housing authority considers necessary and appropriate relating to the standard of the accommodation concerned.
- (5) The Minister may make regulations for the purposes of this section providing for, but not necessarily limited to, the following: 20
- (a) the manner in which a provider shall satisfy the housing authority for the purposes of *subsection (2)(a)*, including by the provision of a certificate of compliance;
 - (b) the class or classes of persons who may provide a certificate of compliance referred to in *paragraph (a)*; 25
 - (c) the information to be provided by a provider to the housing authority before entering into an availability agreement including information relating to the provider, his or her authorised agent (if any) and the dwelling concerned; 30
 - (d) in relation to the termination of an availability agreement by the housing authority or the provider—
 - (i) the terms and conditions relating to, and procedures for, termination, 35
 - (ii) the grounds on which an availability agreement may be terminated,
 - (iii) the giving of notice and notice periods, and
 - (iv) the procedure for resolution of any dispute arising from the proposed termination of the availability agreement including appeal procedures, 40
 - and
 - (e) the period within which a provider shall serve a notice of termination on a qualified tenant pursuant to *section 25(6)*. 45

25.—(1) A housing authority may allocate a dwelling to which this Chapter applies to a qualified tenant in accordance with *section 22*. *Chapter 4 tenancy agreement.*

(2) The provider shall, subject to the terms and conditions of the rental accommodation availability agreement enter into a tenancy agreement (in this Act referred to as a “*Chapter 4 tenancy agreement*”) with the qualified tenant to whom the dwelling concerned is allocated.

(3) A dwelling to which this Chapter applies which is the subject of a *Chapter 4 tenancy agreement* shall not be construed as a dwelling let by or to a public authority for the purposes of section 3(2)(c) of the Act of 2004.

(4) A *Chapter 4 tenancy agreement* shall be in writing, for such period as may be specified therein, and shall include the following particulars relating to the parties to the tenancy, the tenancy and the dwelling concerned:

- (a) the address of the dwelling;
- (b) the name of the tenant;
- (c) the name and address for correspondence of the provider and of the housing authority;
- (d) the name and address for correspondence of the provider’s authorised agent (if any);
- (e) if the provider or his or her authorised agent, as the case may be, is a company, the registered number and registered office of the company;
- (f) a description of the dwelling;
- (g) the date of commencement of the tenancy;
- (h) where the tenancy is for a fixed term, the period of that term.

(5) A *Chapter 4 tenancy agreement* shall, in addition to the obligations imposed under Part 2 of the Act of 2004, include terms and conditions relating to—

- (a) occupation of the dwelling,
- (b) the payment by the qualified tenant to the housing authority of an amount specified in the tenancy agreement (in this Act referred to as the “rent contribution”) at such times as may be specified therein, and
- (c) termination of the tenancy for—
 - (i) failure to pay the rent contribution in accordance with the terms and conditions of the tenancy agreement,
 - (ii) breach of the terms and conditions relating to occupation of the dwelling under *paragraph (a)*, or
 - (iii) knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned,

to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be.

(6) (a) Where a qualified tenant does any of the things specified in *subsection (5)(c)*, he or she shall have failed to comply with the obligations of the tenancy for the purposes of section 67 of the Act of 2004. 5

(b) Where it comes to the notice of the housing authority that a tenant is doing or has done any of the things specified in *subsection (5)(c)* or is or was behaving in a way that is anti-social in breach of the obligation specified in section 16(h) of the Act of 2004, the housing authority may notify the provider in writing regarding the failure to comply with the said obligations. 10

(c) A provider, having received notification from the housing authority under *paragraph (b)*, shall, within such period as may be prescribed under *section 24(5)(e)*, unless the provider has not already done so under section 67 of the Act of 2004, serve a notice of termination on the qualified tenant in accordance with subsection (2) of the said section 67. 15 20

(7) Where a provider serves a notice of termination on a qualified tenant pursuant to a notice from a housing authority under *subsection (6)(b)*, the provider shall give a copy of the notice to the housing authority as soon as practicable thereafter.

(8) Where the provider intends to serve notice of termination on a qualified tenant in accordance with the terms and conditions of the tenancy agreement, other than pursuant to a notice from the housing authority under *subsection (6)(b)*, the provider shall give notice in writing to the housing authority not less than 14 days before serving the notice of termination on the qualified tenant. 25 30

(9) Where the housing authority intends to apply to the District Court for an excluding order against a person under section 3(2) of the Act of 1997, in respect of a dwelling the subject of a *Chapter 4* tenancy agreement, the housing authority shall give notice in writing to the provider of its intention to apply not less than 14 days before making the application. 35

(10) The rent contribution shall be determined by a housing authority in accordance with a rent scheme under *section 31*.

(11) A housing authority may reduce the rent contribution payable under a *Chapter 4* tenancy agreement, for a specified period of the tenancy, where the costs of the accommodation to the tenant before the tenancy agreement was entered into were substantially lower than the costs under the tenancy agreement, resulting in hardship to the household. 40

Expenses incurred by housing authority.

26.—The Minister may, subject to the prior consent of the Minister for Finance, make payments, out of moneys provided by the Oireachtas, to a housing authority in respect of some or all of the expenses, including administrative expenses, incurred by the authority by virtue of this Chapter. 45

Non-application of certain provisions to disposals for purposes of this Chapter.

27.—Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply 50

to the disposal, for any of the purposes of this Chapter, of land or a dwelling by a housing authority.

CHAPTER 5

Management and Control Functions

5 **28.—**(1) Subject to this section, the management and control of any— Management and control functions.

(a) dwelling, building, site or other land of which a housing authority is the owner, or

10 (b) works or services provided by the authority under the *Housing Acts 1966 to 2008*,

shall be vested in and exercised by the housing authority.

15 (2) Where a dwelling is provided by a housing authority under the *Housing Acts 1966 to 2008* or provided under Part V of the Planning and Development Act 2000, the management and control of the common areas appurtenant to and enjoyed with the dwelling are not required to be vested in the housing authority under *subsection (1)*.

20 (3) Subject to this section, a housing authority may perform management and control functions in respect of any dwelling of which the housing authority is not the owner and which is provided under a contract or lease between the housing authority and the owner of the dwelling, including a rental accommodation availability agreement.

25 (4) Subject to the *Housing Acts 1966 to 2008* and regulations made thereunder, a housing authority may in respect of a dwelling or site to which *subsection (1)(a)* applies:

(a) allocate the dwelling to a household in accordance with *section 22*;

30 (b) specify the terms and conditions of the tenancy agreement between the housing authority and the tenant governing the letting of the dwelling in accordance with *section 29*;

(c) specify such rent and make any other charges for the tenancy, occupation or use of the dwelling as the housing authority may determine from time to time in accordance with *section 31*;

35 (d) in relation to any other building or land or works or services provided under the *Housing Acts 1966 to 2008* or Part V of the Planning and Development Act 2000, make such charges, whether by way of rent or otherwise, as it considers appropriate;

40 (e) sell the dwelling under section 90 of the Principal Act or *Part 3*;

45 (f) carry out such works of maintenance, repair or refurbishment, or other activities, as the housing authority may consider necessary and appropriate, for the purposes of securing the proper maintenance of the dwelling or the estate in which the dwelling is situated and the good

management of that estate, having regard to the objectives set out in its housing services plan.

(5) Subject to the *Housing Acts 1966 to 2008* and regulations made thereunder, a housing authority may, in respect of a dwelling to which *subsection (3)* applies, subject to the provisions of any contract or lease between the housing authority and the owner of the dwelling, including a rental accommodation availability agreement: 5

- (a) allocate the dwelling to a household in accordance with *section 22*;
- (b) specify the terms and conditions of a tenancy agreement governing the letting of the dwelling in accordance with *section 29*, as appropriate; 10
- (c) specify such rent and any other charges for the tenancy, occupation or use of the dwelling as the housing authority may determine from time to time in accordance with *section 31*; 15
- (d) carry out such works of maintenance, repair or refurbishment or other activities, as the authority may consider necessary and appropriate, for the purposes of securing the proper maintenance of the dwelling or the estate in which the dwelling is situated and the good management of that estate, having regard to the objectives set out in its housing services plan. 20

(6) The Land Law (Ireland) Act 1881 shall not apply as respects the letting by a housing authority of an allotment provided under *section 11* and such letting shall, unless a provision to the contrary is contained in a letting agreement, be deemed to be a letting for temporary convenience and determinable at the end of any month. 25

Tenancy
agreements.

29.—(1) This section applies to—

- (a) a dwelling referred to in *section 28(1)*, and 30
- (b) a dwelling referred to in *section 28(3)*, other than a dwelling which is the subject of a rental accommodation availability agreement.

(2) The letting of a dwelling to which this section applies shall be subject to a tenancy agreement which shall be in writing, in the prescribed form and, subject to *subsection (3)*— 35

- (a) shall include the terms and conditions specified in *Schedule 3* under which the household is permitted to occupy or use the dwelling, and
- (b) may include such other terms and conditions as the housing authority concerned considers necessary and appropriate in respect of the letting. 40

(3) In the case of a dwelling referred to in *subsection (1)(b)*, the terms and conditions of a tenancy agreement shall be subject to the terms of the contract or lease between the housing authority and the owner of the dwelling. 45

(4) The Minister may by regulations prescribe all or any one or more of the following:

- (a) the form or forms of tenancy agreement;
 - (b) the term of a tenancy by reference to a specified class or specified classes of dwelling and whether the tenancy is periodic or for a fixed term;
 - 5 (c) the notice periods required for termination of a class or classes of tenancy by the housing authority or tenant, as the case may be;
 - (d) procedures for termination of a tenancy by the housing authority or tenant, as the case may be.
- 10 **30.—**(1) Subject to such regulations as may be made for the purposes of this section, a housing authority may delegate to a designated body all or any one or more of its functions (including maintenance) in respect of the management and control of a dwelling of which it is the owner. Delegation of management and control functions.
- 15 (2) A delegation by a housing authority under *subsection (1)* shall specify—
- (a) the designated body for the purposes of the delegation,
 - (b) the functions being delegated to the designated body, and
 - (c) the dwellings to which the delegation applies.
- 20 (3) Without prejudice to the generality of *subsection (2)*, the Minister may make regulations providing for, but not necessarily limited to, all or any one or more of the following:
- (a) the constitution and composition of a designated body;
 - (b) the procedures of a designated body;
 - 25 (c) the terms and conditions of a delegation;
 - (d) the form of an agreement between a housing authority and a designated body in relation to a delegation;
 - (e) the class or classes of dwellings in respect of which a delegation may be made;
 - 30 (f) the monitoring by a housing authority of activities being carried out by a designated body under a delegation, including the inspection by the authority of dwellings;
 - (g) the provision by a designated body of periodic reports and accounts on its activities to a housing authority;
 - 35 (h) the auditing of the annual accounts of a designated body.
- (4) A housing authority may, at its discretion, revoke a delegation under this section whereupon the functions which had been delegated shall again be vested in and exercised by the authority with effect from a date specified in the resolution revoking the delegation.
- 40 (5) The delegation of a function to a designated body or the revocation of any such delegation under this section shall be reserved functions.

(6) A delegation under *subsection (1)* may provide for all or any of the following:

- (a) arrangements in relation to the carrying out of works of maintenance, repair or environmental improvement or ancillary works; 5
- (b) the collection of rent or any other charges due to the housing authority from a tenant, in accordance with a rent scheme under *section 31*;
- (c) the assignment of all or any part of the proceeds of such rent or other charges to the designated body to defray in whole or in part the costs of management and maintenance of a dwelling and common areas appurtenant to such dwelling; 10
- (d) the right of the housing authority to inspect any book, document or other record (including records stored in a non-legible form) of the designated body in relation to the management and control of a dwelling; 15
- (e) assistance by the housing authority to the designated body whether financial or otherwise;
- (f) any other related or incidental matter which the housing authority considers appropriate, including matters set out in the relevant housing services plan relating to the policy on management and maintenance of dwellings owned by the housing authority. 20

(7) For the purposes of this section “designated body” means an association, council, committee or other body whether corporate or unincorporated which is— 25

- (a) (i) established by and represents residents of an area within which are located dwellings that are to be the subject of a delegation under this section, or 30
- (ii) established jointly by such residents and the housing authority and any other person or body (whether corporate or unincorporated) approved of by the authority,
- and 35
- (b) declared by the authority by resolution to be a designated body for the purposes of this section.

Rent schemes and charges.

31.—(1) This section applies to a dwelling provided under the *Housing Acts 1966 to 2008* or Part V of the Planning and Development Act 2000— 40

- (a) of which the housing authority is the owner, or
- (b) of which the housing authority is not the owner and which is provided under a contract or lease between the housing authority and the owner of the dwelling, including a rental accommodation availability agreement. 45

(2) In this section references to rent include a rent contribution payable by a tenant under a *Chapter 4* tenancy agreement.

(3) A housing authority may, in accordance with this section, in respect of a dwelling to which this section applies—

(a) charge such rent or make such other charge for the tenancy or occupation thereof as it may determine from time to time, and

(b) in respect of works or services provided under the *Housing Acts 1966 to 2008* or Part V of the Planning and Development Act 2000, make such charge, whether by rent or otherwise, as it considers appropriate.

(4) Without prejudice to the generality of *subsection (3)*, charges made under that subsection may include—

(a) charges relating to the provision of services to, and the insurance of, a dwelling and other charges relating to the management and control of the dwelling, and

(b) charges relating to—

(i) the management and control of common areas appurtenant to a dwelling where such common areas are also used by the occupants of other dwellings, and

(ii) the provision of services where those services are also provided to the occupants of other dwellings.

(5) (a) A housing authority shall, in accordance with this section and regulations made for the purposes of this section, within one year of its commencement, make a scheme (in this Act referred to as a “rent scheme”) providing for the manner in which rents referred to in *subsection (3)* shall be determined.

(b) A housing authority may, from time to time, as it considers appropriate, or as the Minister directs, revoke the rent scheme and make a new rent scheme.

(6) The Minister may, for the purposes of this section, by regulations provide for the matters to be included in a rent scheme including:

(a) the manner in which the financial circumstances of households and their ability to pay rent shall be taken into account in determining rent, including the level, type and sources of household income that may be assessed for the purpose of determining rents;

(b) the manner in which the size, standard, location and amenity of any class or classes of dwellings shall be taken into account in determining rent, having regard to the market rent in respect of dwellings of a similar size, standard, location and amenity situated in the administrative area concerned;

(c) the manner in which adjustments may be made to the rent in respect of any obligations imposed on the tenant under the tenancy agreement relating to the maintenance of the dwelling;

- (d) the amount, or method of calculation, of any allowances in respect of rent which may be made for dependents;
- (e) the procedure for rent review including rent increases during the period of the tenancy having regard to the cost of providing social housing support and any changes in household circumstances or income levels; 5
- (f) the waiving of rent, in whole or in part, on a temporary basis, in case of financial hardship.

(7) The making and revocation of a rent scheme are reserved functions. 10

(8) The charging of rents or other charges referred to in *subsection (3)* in respect of a dwelling to which this section applies and the review of such rents or other charges in accordance with a rent scheme are executive functions.

(9) A housing authority shall make a copy of its rent scheme available for inspection by members of the public, without charge, on the Internet and at its offices and such other places as it considers appropriate, during normal working hours. 15

Information requirements.

32.—(1) This section applies to—

(a) a household which has applied for housing support and in respect of whom a decision has not been made to allocate a dwelling or site, including a household which applied for housing support before the commencement of this section, 20

(b) a household in respect of whom— 25

(i) a social housing assessment is being carried out under *section 20(3)*, and

(ii) a decision has not yet been made to allocate a dwelling,

and 30

(c) a household in receipt of housing support, whether before or after the commencement of this section.

(2) In the performance of its functions under the *Housing Acts 1966 to 2008*, a housing authority may request—

(a) a household to which this section applies, to give to the housing authority all or any of the following information: 35

(i) the number of household members, together with the age, sex, occupation and condition of health of each member;

(ii) the weekly income of each household member, including any assistance, benefit or allowance received by or on behalf of any household member under the Social Welfare Acts, the Health Acts 1947 to 2007 or the legislation of any other state or from any other source; 40 45

- (iii) the means of transport available to the household and the cost of such transport,

and

- (b) in the case of a household referred to in *subsection (1)(a)* or (b), to give to it all or any of the following information:

- (i) the terms upon which premises are currently occupied by the household, the amount of rent payable in respect of such premises and the name and address of the person to whom rent is payable;

- (ii) any dwelling or site provided by a housing authority, or an approved body, previously let or sold to the household or any household member at any time before the application is made;

- (iii) any dwelling previously let to the household or any household member under a *Chapter 4* tenancy agreement at any time before the application is made.

(3) A request for information shall be in writing and shall specify a period of not less than 14 days from the date of the request within which the information shall be given to the housing authority.

(4) Information shall be given in writing unless the housing authority agrees to the information being given in another form and subject to any conditions it may specify.

(5) Without prejudice to *subsection (2)*, for the purposes of carrying out social housing assessments under *section 20*, the Minister may make regulations providing for—

- (a) the form in which an application for social housing support shall be made, including by electronic means,

- (b) the information and particulars to be provided by a household applying for social housing support and verification of such information and particulars,

- (c) the furnishing of such additional information as a housing authority considers appropriate for the purposes of carrying out an assessment,

- (d) the period within which the information and particulars, including any additional information, shall be provided by the household concerned, and

- (e) such other matters as the Minister considers necessary and appropriate.

(6) (a) A person is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,000 where he or she is a member of a household requested to give information to a housing authority under this section or any regulations made under *subsection (5)* and he or she—

- (i) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or

- (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular.

- (b) An offence under *paragraph (a)* may be prosecuted by the housing authority who requested the information referred to in that paragraph. 5

(7) Where a person is convicted of an offence under *subsection (6)(a)* and by reason of that offence the housing authority incurred a higher level of expenditure in providing housing support for a household than it would have incurred otherwise, any such expenditure shall be repayable to the housing authority and the person or the personal representative of that person shall be liable to pay to the housing authority, on demand, the expenditure so repayable and that expenditure, if not so repaid, may be recovered by the housing authority as a simple contract debt in any court of competent jurisdiction. 10 15

(8) Where a person is convicted of an offence under *subsection (6)(a)* and by reason of that offence the housing authority charged a lower rent in respect of the provision of housing support than it would otherwise have charged, the amount by which the rent was undercharged shall be repayable to the housing authority and the person or the personal representative of that person shall be liable to pay to the housing authority, on demand, the amount so repayable and that amount, if not so repaid, may be recovered by the housing authority as a simple contract debt in any court of competent jurisdiction. 20 25

Moneys owing to housing authority.

33.—(1) This section applies to the following provisions:

- (a) sections 28, 31, 32(7) and (8), 40(6) and (7), 43 and 44;
- (b) section 13 of the Act of 1988; 30
- (c) sections 3 and 11 of the Act of 1992;
- (d) section 25 of the Housing (Traveller Accommodation) Act 1998; and
- (e) sections 9 and 10 of the Act of 2002.

(2) Interest is payable in accordance with this section on so much of any rent, charges, fees or loan repayments or any other moneys due and owing to a housing authority under any of the provisions to which this section applies which remain unpaid in respect of the period between the date on which the moneys become payable and the date on which payment is made. 35 40

(3) The rate of interest payable under *subsection (2)* shall be that for the time being prescribed for the purposes of this section but in any case shall not be more than the rate for the time being applicable to a High Court civil judgement debt.

(4) Where there are moneys due and owing by a household to a housing authority under any of the provisions to which this section applies and, at the same time, another sum is due by the local authority concerned to that household, the former sum may be set off against the latter, in whole or in part, as appropriate. 45

(5) The Minister may prescribe the rate of interest for the purposes of *subsection (2)*.

34.—(1) This section applies to the following provisions:

Arrangements with households for payment of moneys due and owing to housing authority.

(a) *sections 28, 31 and 32(7) and (8)*;

(b) *section 13 of the Act of 1988*;

(c) *sections 3 and 11 of the Act of 1992, and*

(d) *section 25 of the Housing (Traveller Accommodation) Act 1998.*

(2) Where there are moneys due and owing by a household to a housing authority under any of the provisions to which this section applies and the housing authority is satisfied that the household would otherwise suffer undue hardship, the housing authority may enter into arrangements with the household for the payment of those moneys (together with any interest that may have accrued under *section 33(2)*) by such instalments and at such times as the housing authority considers reasonable in all the circumstances in addition to any rent, charges, fees or loan repayments that the household is paying to the authority.

35.—(1) A housing authority shall, within one year of the commencement of this section, draw up and adopt a strategy (in this section referred to as an “anti-social behaviour strategy”) in respect of that part or those parts of its administrative area in which are situated—

Anti-social behaviour strategy.

(a) *dwellings let by the housing authority to tenants under the Housing Acts 1966 to 2008,*

(b) *dwellings in which relevant purchasers (within the meaning of section 1 of the Act of 1997) reside, and*

(c) *sites (within the meaning of section 1 of the Act of 1997).*

(2) An anti-social behaviour strategy shall have as its principal objectives—

(a) *the prevention and reduction of anti-social behaviour,*

(b) *the co-ordination of services within the housing authority directed at dealing with, or preventing or reducing, anti-social behaviour,*

(c) *the promotion of co-operation with other persons, including the Garda Síochána, in the performance of their respective functions insofar as they relate to dealing with, or the prevention or reduction of, anti-social behaviour, having regard to the need to avoid duplication of activities by the housing authority and such other persons in the performance of those functions, and*

(d) *the promotion of good estate management.*

(3) An anti-social behaviour strategy shall set out the proposals of the housing authority for achieving the principal objectives

referred to in *subsection (2)*, including, but not necessarily limited to, the following:

- (a) procedures in relation to the making of complaints to the housing authority in respect of anti-social behaviour;
 - (b) initiatives for the prevention and reduction of anti-social behaviour; 5
 - (c) the provision of education relating to, and the carrying out of research into, anti-social behaviour and its prevention and reduction.
- (4) A housing authority— 10
- (a) shall, not less than 6 months before the expiration of its housing services plan, and
 - (b) may, from time to time as it thinks fit,
- review its anti-social behaviour strategy and amend the strategy or draw up and adopt a new strategy, as it considers appropriate. 15
- (5) When drawing up a strategy, or before amending a strategy, a housing authority shall consult with—
- (a) any joint policing committee established under section 36 of the Garda Síochána Act 2005 in respect of its administrative area, 20
 - (b) the Garda Síochána,
 - (c) the Health Service Executive, and
 - (d) any other person as the authority considers appropriate.
- (6) The drawing up and adoption of, and the amendment of, an anti-social behaviour strategy shall be a reserved function. 25
- (7) The drawing up and adoption of, and amendment of, an anti-social behaviour strategy is not to be taken to confer on any person a right in law that the person would not otherwise have to require a housing authority in a particular case to exercise any function conferred on it under the Act of 1997 or this Act or to seek damages 30 for a housing authority’s failure to perform any such function.

PART 3

INCREMENTAL PURCHASE ARRANGEMENTS

Interpretation
(Part 3).

- 36.—**In this Part—
- “charging order” has the meaning given to it by *section 39*; 35
- “eligible household” means—
- (a) a household assessed by a housing authority under *section 20* as being qualified for social housing support, which has been allocated a dwelling to which this Part applies in accordance with an allocation scheme and which has 40

resided in the dwelling concerned for not more than 5 years from the date of the allocation, or

- (b) a household referred to in *section 22(5)(c)*, which has been allocated a dwelling to which this Part applies in accordance with an allocation scheme;

“incremental purchase arrangement” has the meaning given to it by *section 38*;

“incremental release” has the meaning given to it by *section 39*;

“market value”, in relation to a dwelling to which this Part applies, means the price for which the unencumbered fee simple of the dwelling might reasonably be expected to be sold on the open market;

“material improvements” means improvements made to a dwelling sold under an incremental purchase arrangement (whether for the purpose of extending, enlarging, repairing or converting the dwelling), but does not include decoration, or any improvements carried out on the land including the construction of a dwelling;

“net market value” means the market value reduced by an allowance equal to the amount of the market value attributable to material improvements;

“purchase money”, in relation to a dwelling to which this Part applies, means—

- (a) the monetary value of the proportion of the purchase price of the dwelling fixed by the housing authority as the proportion that is required to be paid to purchase the dwelling, and

- (b) any interest payable on the amount determined in accordance with *paragraph (a)*;

“purchaser” means a person who purchases a dwelling under an incremental purchase arrangement and includes a person in whom there subsequently becomes vested (other than for valuable consideration) the interest of the purchaser or his or her successor in title and the personal representative of that person or successor in title;

“transfer order” has the meaning given to it by *section 38*.

37.—(1) Subject to *subsection (2)*, this Part applies to a dwelling provided by a housing authority under the *Housing Acts 1966 to 2008* or by an approved body with the assistance of a housing authority under *section 6* of the *Act of 1992* or provided under *Part V* of the *Planning and Development Act 2000*—

Application of Part 3 to certain dwellings.

- (a) constructed after the commencement of this Part, or the construction of which began before the commencement of this Part and which is completed after such commencement and which is allocated to an eligible household in accordance with an allocation scheme within one year of its completion, or

- (b) which has not previously been let in accordance with an allocation scheme and is vacant on the commencement of this Part,

and which may be purchased under an incremental purchase arrangement.

(2) This Part does not apply to a dwelling which is a separate and self-contained apartment in a premises, divided into 2 or more apartments, which would require arrangements for the upkeep and management of common areas, works or services other than by the purchaser.

Sale of dwelling by
an incremental
purchase
arrangement.

38.—(1) A housing authority or an approved body may, in accordance with this section and the *Housing Acts 1966 to 2008* and subject to such regulations as may be made under *section 41*, sell a dwelling to which this Part applies to an eligible household under an arrangement (in this Part referred to as an “incremental purchase arrangement”) whereby, in consideration of the receipt of the purchase money, calculated in accordance with regulations made under *section 41*, the housing authority or approved body, as appropriate, transfers the fee simple interest in the dwelling to the purchaser, subject to any terms and conditions that the housing authority or approved body may specify, including the following:

- (a) where the purchaser sells the dwelling to a person other than a housing authority or approved body during the period of the charging order made under *section 39*, the purchaser shall pay to the authority or approved body, as appropriate, an amount calculated in accordance with *section 40(6)* or (7);
- (b) the dwelling shall, unless the housing authority or approved body, as appropriate, gives its prior written consent, be occupied as the normal place of residence of the purchaser or by a member of the purchaser’s household;
- (c) the dwelling or any part thereof shall not, without the prior written consent of the housing authority or approved body, as appropriate, be sold, assigned, let or sublet or otherwise disposed of or mortgaged, charged or alienated, otherwise than by devise or operation of law;
- (d) the purchaser shall not, without the prior written consent of the housing authority or approved body, as appropriate, make material improvements to the dwelling;
- (e) terms and conditions relating to—
 - (i) maintenance of the dwelling by the purchaser, and
 - (ii) the provision and maintenance of adequate property insurance by the purchaser in respect of the dwelling.

(2) The sale of a dwelling to which this Part applies under an incremental purchase arrangement shall be effected by means of an order (in this Part referred to as a “transfer order”) made by the housing authority or approved body, as appropriate, which shall be expressed and shall operate to vest, on the date specified in the transfer order, the interest specified therein, subject to such terms and conditions as may be specified therein, including the terms and conditions of the charging order made under *section 39*.

(3) Save as provided for by any other enactment or regulations made thereunder, the sale of a dwelling to which this Part applies

under an incremental purchase arrangement shall not imply any warranty on the part of the housing authority or approved body concerned in relation to the state of repair or condition of the dwelling or its fitness for human habitation.

5 (4) An approved body may, with the consent of the housing authority and subject to such regulations as may be made under *section 41*, reserve a number of dwellings for sale under this Part, being dwellings provided with the assistance of a housing authority under section 6 of the Act of 1992.

10 (5) Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under this section.

15 **39.—**(1) As soon as practicable after a dwelling to which this Part applies is sold under an incremental purchase arrangement, the housing authority or approved body, as appropriate, shall make an order (in this Part referred to as a “charging order”) charging the dwelling in the terms specified in this section for the period specified in the order. Charging order.

20 (2) The charging order shall create a charge in favour of the housing authority or approved body concerned in respect of an undivided percentage share (in this section referred to as the “charged share”), calculated in accordance with *subsection (3)*, in the dwelling which charged share shall be reduced in accordance with *subsection (4)*.

25 (3) The charged share is calculated in accordance with the following formula:

$$\frac{Y \times 100}{Z}$$

where—

30 (a) Y is the difference between the purchase price of the dwelling at the time of sale to the purchaser and the purchase money, and

(b) Z is the purchase price of the dwelling at the time of sale to the purchaser.

35 (4) (a) Subject to *paragraph (b)*, the charged share shall be reduced, in equal proportions (referred to in this section as “incremental releases”) applied annually, on the anniversary of the date of the transfer order, in respect of each complete year after that date during which a purchaser has been in occupation of the dwelling as his or her normal place of residence, until the earlier of—

(i) subject to *section 40*, the first resale of the dwelling, or

(ii) the expiration of the period of the charge.

45 (b) The reduction of the charged share for the period of 5 years from the date of the transfer order shall be cumulative and shall not apply until the expiration of that period, provided the purchaser has been in occupation of the dwelling as his or her normal place of residence for that period.

(5) (a) The housing authority or approved body shall, subject to this section and the terms and conditions of the transfer order having been complied with, where requested by the purchaser, execute a deed of discharge in respect of the accumulated amount of incremental releases that have been applied under the charging order. 5

(b) The purchaser shall be liable for any expenses, including those of the housing authority or approved body, incurred in the execution and registration of a deed of discharge. 10

(6) A charging order shall be deemed to be a mortgage made by deed within the meaning of the Conveyancing Acts 1881 to 1911 and to have been executed, at the time of the sale of the dwelling, in favour of the housing authority or approved body, as appropriate, for a charge in the terms provided for in this section. 15

(7) Accordingly, the housing authority or approved body shall, as on and from the making of the charging order—

(a) be deemed to be a mortgagee of the dwelling for the purposes of the Conveyancing Acts 1881 to 1911, and

(b) have, in relation to the charge referred to in *subsection (6)*, all the powers conferred by those Acts on mortgagees under mortgages made by deed. 20

(8) Where a housing authority or an approved body makes a charging order, it shall, as soon as practicable thereafter, cause the order to be registered in the Registry of Deeds or the Land Registry, as appropriate, and it shall be a sufficient description of the charge in respect of which the order is being registered to state that charge to be the charge referred to in *section 39(2) of the Housing (Miscellaneous Provisions) Act 2008*. 25

(9) A charging order affecting a dwelling which is registered land within the meaning of the Registration of Title Act 1964 shall be registrable as a burden affecting such land whether the person named in the order as the owner of the land is or is not registered under the said Act as the owner of the land. 30

(10) A housing authority or an approved body may, subject to *subsection (11)*, enter into an agreement with a holder of a licence under the Central Bank Act 1971, a building society or other financial institution that a charge proposed to be created by it by a charging order shall have a priority, as against a mortgage or charge proposed to be created in favour of that holder, society or institution, that is different from the priority the charge would otherwise have if this subsection had not been enacted. 35 40

(11) A housing authority or an approved body may only enter into an agreement referred to in *subsection (10)* if it considers that the agreement will— 45

(a) enable an eligible household to whom it is proposing to sell a dwelling to which this Part applies under an incremental purchase arrangement to obtain an advance of moneys from the holder, society or institution referred to in *subsection (10)* for the purposes of purchasing the dwelling, or 50

(b) enable a purchaser—

- (i) to refinance an existing advance of moneys from the holder, society or institution referred to in *subsection (10)*, or
- 5 (ii) to obtain a further advance of moneys from the holder, society or institution referred to in *subsection (10)*, for any purpose.
- (12) Any amount that becomes payable to a housing authority or an approved body under *section 40(6)* or (7) may, without prejudice to any other power in that behalf, be recovered by the authority or approved body, as the case may be, from the person concerned as a simple contract debt in any court of competent jurisdiction.
- (13) For the avoidance of doubt, neither a charging order nor a charge that arises under it shall be regarded as a conveyance for the purposes of section 3 of the Family Home Protection Act 1976.
- 15 (14) The charge under *subsection (2)* shall be discharged by the housing authority or approved body on the earlier of—
- (a) subject to *section 40*, the first resale of the dwelling, or
- (b) the expiration of the period of the charge.
- 20 **40.—(1)** Where a purchaser proposes to sell a dwelling which is subject to a charging order under *section 39* which has not been discharged, he or she shall give prior written notice to the housing authority or approved body, as appropriate, in accordance with the terms and conditions specified in the transfer order.
- Control on resale of dwelling sold under an incremental purchase arrangement.
- (2) Upon receipt of a notice referred to in *subsection (1)*, the housing authority or approved body may, subject to *subsection (5)*, purchase the dwelling for a sum equivalent to its market value, reduced by an amount equal to that proportion of the market value of the dwelling corresponding to the charged share in the dwelling on the date of resale.
- 30 (3) Where a mortgagee, not being a housing authority, proposes to exercise his or her powers of sale under a mortgage in respect of the dwelling, the housing authority or an approved body, as the case may be, may purchase the remaining interest in the mortgage.
- (4) Without prejudice to any other power in that behalf, a housing authority or an approved body, as appropriate, may refuse to consent to the sale to any person of the dwelling where the housing authority or an approved body, as the case may be, are of the opinion that—
- 35 (a) the proposed sale price is less than the market value,
- 40 (b) the intended purchaser is or was engaged in anti-social behaviour or the sale would not be in the interest of good estate management, or
- (c) the intended sale would, if completed, leave the vendor or any person who might reasonably be expected to reside with him or her without adequate housing.
- 45 (5) Where the housing authority or approved body purchases the dwelling in accordance with *subsection (2)* and material improvements have been made to the dwelling with the prior written consent

of the housing authority or approved body, as appropriate, in accordance with the terms and conditions of the transfer order, the price payable by the authority or approved body shall be the market value of the dwelling, reduced by an amount equal to that proportion of the net market value of the dwelling as corresponds to the charged share of the authority or approved body in the dwelling on the date of its resale. 5

(6) Where a purchaser resells a dwelling to a person other than a housing authority or an approved body during the period of the charging order, the purchaser shall pay to the housing authority or approved body concerned an amount equal to a percentage of the market value, such percentage being the equivalent of the charged share of the authority or approved body in the dwelling on the date of resale of the dwelling. 10

(7) Where a purchaser resells a dwelling to which material improvements have been made with the prior written consent of the authority or approved body, as appropriate, to a person other than a housing authority or an approved body, the purchaser shall pay to the housing authority or approved body an amount equal to that proportion of the net market value of the dwelling as corresponds to the charged share of the authority or approved body in the dwelling on the date of its resale. 15 20

(8) Where the amount payable under any of the provisions of this section would reduce the proceeds of the sale (disregarding solicitor and estate agent's costs and fees) below the purchase money, the amount payable under the charging order shall be reduced to the extent necessary to avoid that result. 25

(9) The housing authority may take account of any moneys likely to accrue to an approved body from the sale of dwellings under incremental purchase arrangements when providing assistance to such a body under section 6 of the Act of 1992 in respect of the provision of housing accommodation. 30

(10) (a) Subject to *paragraph (b)*, any moneys accruing to an approved body from the sale of a dwelling under an incremental purchase arrangement or the resale of such a dwelling shall be paid to the housing authority for use by the housing authority for the purposes specified in *section 13*. 35

(b) Repayment of the moneys referred to in *paragraph (a)* shall be limited to the extent that those moneys have been taken into account by the housing authority when providing assistance under section 6 of the Act of 1992 in respect of the provision of housing accommodation. 40

(11) For the purposes of this section, the current market value of a dwelling shall be determined by the housing authority or the approved body, as appropriate, or, where the vendor does not agree with the market value so determined, by an independent valuer nominated by the vendor from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under *section 41*. 45 50

- (a) the class or classes of dwelling to which incremental purchase arrangements may apply;
- (b) the class or classes of households with whom incremental purchase arrangements may be entered into;
- 5 (c) the method for determining the purchase price of a dwelling;
- (d) the method for determining the purchase money taking account of the financial circumstances of households with whom incremental purchase arrangements may be entered into;
- 10 (e) the determination of the minimum period, or the range within which a housing authority shall fix the minimum period, for which a charging order shall apply in respect of a dwelling sold under an incremental purchase arrangement, which period shall not in any case be less than 20 years from the date of the transfer order;
- 15 (f) in the case of an approved body, the reservation by it of a specified number or proportion of newly-constructed dwellings provided with the assistance of a housing authority under section 6 of the Act of 1992;
- 20 (g) the form and manner of, and terms and conditions to be specified in, a transfer order;
- (h) the class or classes or description of person who are suitably qualified by reference to their qualifications and experience to determine the market value of a dwelling or site, as the case may be;
- 25 (i) such other matters as the Minister considers necessary and appropriate relating to incremental purchase arrangements.

30

PART 4

PROVISIONS IN RESPECT OF CERTAIN GRANTS

42.—(1) In this section and *section 43*—

Grants in respect of provision of sites under section 57 of Principal Act.

“market value”, in relation to a site, means the price for which the unencumbered fee simple of the site might reasonably be expected to be sold on the open market;

35

“qualified purchaser” means a household which—

- (a) has been assessed by a housing authority under *section 20* as being qualified for social housing support, or
- (b) is a tenant in a dwelling provided by—
 - 40 (i) a housing authority under the *Housing Acts 1966 to 2008* or Part V of the Planning and Development Act 2000,
 - (ii) a rental accommodation provider pursuant to a rental accommodation availability agreement, or

(iii) an approved body,

and includes a person in whom there subsequently becomes vested (other than for valuable consideration) the interest of the qualified purchaser or his or her successor in title and the personal representative of that person or successor in title; 5

“site” means a site provided by a housing authority under section 57 of the Principal Act.

(2) The Minister may, with the consent of the Minister for Finance, and subject to such regulations as may be made for the purposes of this section, pay to a housing authority out of moneys provided by the Oireachtas a grant of such amount as the Minister may determine in respect of— 10

(a) the provision by the authority of a site to an approved body for—

(i) the erection, other than by or on behalf of a housing authority, of a dwelling or dwellings for the purposes of letting to households assessed under *section 20* as being qualified for social housing support, or 15

(ii) the erection of a dwelling or dwellings for the purposes of sale to qualified purchasers, 20

or

(b) the provision of a site to a qualified purchaser.

(3) The amount of a grant payable by the Minister under *subsection (2)*, may be used to defray all or any of the following costs incurred by the housing authority— 25

(a) site acquisition costs including loan interest and other related costs,

(b) costs of works necessary for or incidental to the development of the site for the purposes of the erection of the dwelling or dwellings, and 30

(c) professional, legal and any other costs incurred by the authority in relation to the provision of the site.

(4) The Minister may make regulations providing for, in particular, but without prejudice to the generality of *subsection (2)*, all or any one or more of the following: 35

(a) the terms and conditions subject to which a grant may be made under this section, including terms and conditions relating to the ownership of a site provided by a housing authority to an approved body for the purposes specified in *subsection (2)(a)*; 40

(b) the means of determining the purchase price of a site having regard to its market value;

(c) the range of the amount of the grant paid for the purposes of *subsection (2)(a)(i)*, having regard to the location of the site and the type of dwelling to be erected on the site; 45

(d) the maximum grant payable for the purposes of *subsection (2)(a)(ii)* or *(b)*;

(e) requirements in relation to the payment of the grant including, but not necessarily limited to, terms and conditions relating to—

(i) the use of the dwelling as the qualified purchaser's normal residence, and

(ii) repayments to a housing authority under *section 43*;

(f) requirements in relation to standards of construction and works.

43.—(1) This section applies to a site provided by a housing authority to a qualified purchaser at a purchase price less than the market value. Control on resale of certain sites or dwellings thereon.

(2) Where a site to which this section applies, including a site with a dwelling thereon, is first resold before the expiration of 20 years from the date of the sale of the site to a qualified purchaser, an amount equal to a percentage of the market value of the site only at the date of the resale, calculated in accordance with *subsection (3)*, shall be paid by the vendor to the housing authority.

(3) The percentage referred to in *subsection (2)* is calculated in accordance with the following formula—

$$\frac{Y \times 100}{Z}$$

where—

(a) Y is the difference between the market value of the site at the date of the sale to the qualified purchaser and the price actually paid, and

(b) Z is the market value of the site at the date of the sale to the qualified purchaser.

(4) The amount payable under *subsection (2)* shall be reduced by 10 per cent in respect of each complete year after the tenth year during which the purchaser has been in possession of the site.

(5) Where the amount payable under *subsection (2)* would, if subtracted from the market value of the site at the date of its resale, result in an amount that is less than the price actually paid for the site, the amount payable shall be reduced to the extent necessary to avoid that result.

(6) As soon as practicable after a site to which this section applies is sold to a qualified purchaser, the housing authority shall make an order charging the site with an amount that shall be expressed in the order in the terms set out in *subsection (7)*.

(7) The terms referred to in *subsection (6)* are that the amount charged is an amount equal to the amount (if any) that may subsequently become payable under *subsection (2)* in respect of the site.

(8) An order under *subsection (6)* shall be deemed to be a mortgage made by deed within the meaning of the Conveyancing Acts

1881 to 1911 and to have been executed, at the time of the sale of the site to the qualified purchaser, in favour of the housing authority for a charge of the amount referred to in *subsection (7)*.

(9) Accordingly, the housing authority shall, as on and from the making of such an order— 5

(a) be deemed to be a mortgagee of the site for the purposes of the Conveyancing Acts 1881 to 1911, and

(b) have in relation to the charge referred to in *subsection (8)*, all the powers conferred by those Acts on mortgagees under mortgages made by deed. 10

(10) Where a housing authority makes an order under *subsection (6)*, it shall, as soon as practicable thereafter, cause the order to be registered in the Registry of Deeds or the Land Registry, as appropriate, and it shall be a sufficient description of the amount in respect of which the charge to which the order relates is being registered to state that amount to be the amount referred to in *section 43(7)* of the *Housing (Miscellaneous Provisions) Act 2008*. 15

(11) An order under *subsection (6)* affecting a site to which this section applies which is registered land within the meaning of the Registration of Title Act 1964 shall be registrable as a burden affecting such land whether the person named in the order as the owner of the land is or is not registered under the said Act as the owner of the land. 20

(12) A housing authority may, subject to *subsection (13)*, enter into an agreement with a holder of a license under the Central Bank Act 1971, a building society or other financial institution that a charge proposed to be created by it by an order under *subsection (6)* shall have a priority, as against a mortgage or charge proposed to be created in favour of that holder, society or institution, that is different from the priority the charge would otherwise have if this subsection had not been enacted. 25 30

(13) A housing authority may only enter into an agreement referred to in *subsection (12)* if it considers that the agreement will—

(a) enable a qualified purchaser to whom it is proposing to sell a site to which this section applies to obtain an advance of moneys from the holder, society or institution referred to in *subsection (12)* for the purposes of purchasing the site, or 35

(b) enable a qualified purchaser who purchased a site to which this section applies— 40

(i) to refinance an existing advance of moneys from the holder, society or institution referred to in *subsection (12)*, or

(ii) to obtain a further advance of moneys from the holder, society or institution referred to in *subsection (12)*, for any purpose. 45

(14) Any amount that becomes payable to a housing authority under *subsection (2)* may, without prejudice to any other power in that behalf, be recovered by the authority from the person concerned as a simple contract debt in any court of competent jurisdiction. 50

(15) For the avoidance of doubt, neither an order under *subsection (6)* nor a charge that arises under it shall be regarded as a conveyance for the purposes of *section 3* of the Family Home Protection Act 1976.

5 (16) For the purposes of this section, the current market value of a site to which this section applies shall be determined by the housing authority, or, where the vendor does not agree with the market value so determined, by an independent valuer nominated by the vendor from a panel of suitably qualified persons, established by the housing
10 authority, who are of a class or description prescribed under *section 41*.

15 **44.—**(1) This section applies to a grant paid to a person under article 5 of the Housing (Adaptation Grants for Older People and People with a Disability) Regulations 2007 (S.I. No. 670 of 2007), for the purpose of providing additional accommodation, pursuant to an application received by a housing authority on or after such date as may be prescribed. Repayment of adaptation grant.

20 (2) (a) Where a dwelling in respect of which a grant was paid is sold before the expiration of 5 years from the date of payment of the grant, the vendor shall pay to the housing authority an amount equal to a percentage of the grant.

(b) The percentage referred to in *paragraph (a)* is—

(i) 85 per cent of the grant paid where less than one year has passed since the date of payment of the grant,

25 (ii) 70 per cent of the grant paid where one year or more but less than 2 years has passed since the date of payment of the grant,

30 (iii) 50 per cent of the grant paid where 2 years or more but less than 3 years has passed since the date of payment of the grant,

(iv) 35 per cent of the grant paid where 3 years or more but less than 4 years has passed since the date of payment of the grant, and

35 (v) 20 per cent of the grant paid where 4 years or more but less than 5 years has passed since the date of payment of the grant.

40 (3) As soon as practicable after the grant is paid to a person, the housing authority shall make an order charging the dwelling with an amount that shall be expressed in the order in the terms set out in *subsection (4)*.

(4) The terms referred to in *subsection (3)* are that the amount charged is an amount equal to the amount (if any) that may subsequently become payable under *subsection (2)* in respect of the dwelling.

45 (5) An order under *subsection (3)* shall be deemed to be a mortgage made by deed within the meaning of the Conveyancing Acts 1881 to 1911 and to have been executed, at the time of the making of the grant, in favour of the housing authority for a charge of the amount referred to in *subsection (4)*.

(6) Accordingly, the housing authority shall, as on and from the making of an order under *subsection (3)*—

(a) be deemed to be a mortgagee of the dwelling for the purposes of the Conveyancing Acts 1881 to 1911, and

(b) have, in relation to the charge referred to in *subsection (5)*,
all the powers conferred by those Acts on mortgagees
under mortgages made by deed. 5

(7) Where a housing authority makes an order under *subsection (3)*, it shall, as soon as practicable thereafter, cause the order to be registered in the Registry of Deeds or the Land Registry, as appropriate, and it shall be a sufficient description of the amount in respect of which the charge to which the order relates is being registered to state that amount to be the amount referred to in *subsection (4)* of the *Housing (Miscellaneous Provisions) Act 2008*. 10

(8) An order under *subsection (3)* affecting a dwelling which is registered land within the meaning of the Registration of Title Act 1964 shall be registrable as a burden affecting such land whether the person named in the order as the owner of the land is or is not registered under that Act as the owner of the land. 15

(9) Any amount that becomes payable to a housing authority under *subsection (2)*, may, without prejudice to any other power in that behalf, be recovered by the authority from the person concerned as a simple contract debt in any court of competent jurisdiction. 20

(10) For the avoidance of doubt, neither an order under *subsection (3)* nor a charge that arises under it shall be regarded as a conveyance for the purposes of section 3 of the Family Home Protection Act 1976. 25

SCHEDULE 1

Section 7

REPEALS

Item	Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)	(4)
1	No. 21 of 1966	Housing Act 1966	Sections 56, 58 and 61
2	No. 28 of 1988	Housing Act 1988	Sections 8, 9, 11, 14, 15 and 20
3	No. 18 of 1992	Housing (Miscellaneous Provisions) Act 1992	Section 9
4	No. 9 of 2002	Housing (Miscellaneous Provisions) Act 2002	Section 14

SCHEDULE 2

Section 8.

CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO HOUSING ACT 1966

Item	Provision affected	Amendment
(1)	(2)	(3)
1	Section 90	Insert the following after subsection (4): “(4A)Section 211(2) of the Planning and Development Act 2000 shall not apply to the sale of a dwelling under subsection (1)(a)(i).”.
2	Section 107(7)	Substitute “at the rate at which on the date of the undertaking the authority could borrow from the Housing Finance Agency for the purposes of house purchase loans which are subject to a variable interest rate” for “at a rate specified in the undertaking, being the rate at which on the date of the undertaking the authority could borrow from the local loans fund”.

PART 2

AMENDMENT TO HOUSING FINANCE AGENCY ACT 1981

Item	Provision affected	Amendment
(1)	(2)	(3)
1	Section 10(3)	Substitute “€10,000,000,000” for “€6,000,000,000”.

PART 3

AMENDMENT TO HOUSING ACT 1988

Item	Provision affected	Amendment	
(1)	(2)	(3)	5
1	Section 13	In subsection (3), substitute “ <i>Section 11 of the Housing (Miscellaneous Provisions) Act 2008</i> ” for “Section 56(2) of the Principal Act”.	

PART 4

AMENDMENTS TO HOUSING (MISCELLANEOUS PROVISIONS) ACT 1992 10

Item	Provision affected	Amendment	
(1)	(2)	(3)	
1	Section 1(1)	Insert the following definitions: “ ‘improvement notice’ has the meaning given to it by section 18A; ‘prohibition notice’ has the meaning given to it by section 18B;”.	15
2	Section 3	(a) In subsection (1)(a), substitute “the <i>Housing Acts 1966 to 2008</i> ” for “section 56 of the Housing Act 1966”. (b) In subsection (8)(b)(i), substitute “ <i>sections 28 to 31 of the Housing (Miscellaneous Provisions) Act 2008</i> ” for “section 58 of the Principal Act”.	20
3	Section 5	In subsection (2), substitute the following for paragraph (a): “(a) who has been assessed under <i>section 20 of the Housing (Miscellaneous Provisions) Act 2008</i> as being qualified for social housing support, but only if by exercising those functions the authority is satisfied that the person’s need for such support will be met or obviated, or”.	25 30
4	Section 18	(a) In subsection (1), delete “, works and services appurtenant thereto and enjoyed therewith”. (b) Delete subsections (3) to (6). (c) In subsection (7)(b), insert “and any common areas” after “house”. (d) Substitute the following for subsection (8): “(8) For the purposes of subsection (7)(b) ‘a proper state of structural repair’ means sound, internally and externally, with roof, roofing tiles and slates, windows, floors, ceilings, walls, stairs, doors, skirting boards, fascia, tiles on any floor, ceiling and wall, gutters, down pipes, fittings, furnishings, gardens and common areas maintained in good condition and repair and not defective due to dampness or otherwise.”. (e) Insert the following after subsection (8): “(9) In this section and sections 18A and 18B— ‘common areas’ means common areas, works and services that are appurtenant to houses and	35 40 45 50

Item	Provision affected	Amendment
(1)	(2)	(3)
5		<p>enjoyed therewith and that are in the ownership or under the control of the landlord;</p> <p>‘landlord’ means the person for the time being entitled to receive (otherwise than as agent for another person) the rent paid in respect of a house by the tenant thereof;</p> <p>‘tenancy’ includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied;</p> <p>‘tenant’ means the person for the time being entitled to the occupation of a house under a tenancy.”.</p>
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15	5	<p>Insert the following new sections after section 18:</p> <p>“Improvement notice.</p> <p>18A.—(1) Where, in the opinion of a housing authority, a landlord is contravening or has contravened a requirement of a regulation made under section 18, the authority may give notice in writing (in this Act referred to as an “improvement notice”) to the landlord of the house concerned.</p> <p>(2) An improvement notice shall—</p> <p>(a) state that the housing authority is of the opinion referred to in subsection (1),</p> <p>(b) state the reasons for that opinion,</p> <p>(c) identify the provision of the regulation concerned in respect of which that opinion is held,</p> <p>(d) direct the landlord to remedy the contravention within the period specified in the notice commencing on the date specified therein, which date shall not be earlier than the end of the period within which an objection may be submitted under subsection (6),</p> <p>(e) include information regarding the submission of an objection and the making of an appeal in relation to the notice, specifying—</p> <p>(i) the form and manner of an objection,</p> <p>(ii) the form and manner of an appeal, and</p> <p>(iii) the address of the housing authority for the purpose of submitting an objection under subsection (6) or notifying the authority of an appeal under subsection (7), as the case may be,</p> <p>(f) contain a statement that if an objection is not submitted in accordance with subsection (6) and within the period specified in that subsection then—</p> <p>(i) the notice will be treated as not disputed, and</p> <p>(ii) the landlord will be deemed to have accepted the notice and to have agreed to comply with the direction within the period specified therein,</p> <p>and</p>
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Item	Provision affected	Amendment
(1)	(2)	(3)
		<p>(g) be signed and dated by the housing authority.</p> <p>(3) An improvement notice may include directions as to the measures to be taken to remedy the contravention to which the notice relates or to otherwise comply with the notice. 5</p> <p>(4) Where an improvement notice is given under subsection (1), the housing authority shall give a copy to the tenant of the house concerned.</p> <p>(5) (a) A landlord to whom an improvement notice has been given who is of the opinion that the improvement notice has been complied with shall, before the expiration of the period specified in the notice for the purpose of subsection (2)(d), confirm in writing to the housing authority that the matters referred to in the notice have been so remedied and shall give a copy of the confirmation to the tenant. 10 15</p> <p>(b) Where a landlord confirms to the housing authority in accordance with paragraph (a) that the matters referred to in the improvement notice have been remedied, the housing authority, on being satisfied that the matters have been so remedied, shall, within 28 days of receiving such confirmation, give notice in writing to the landlord of compliance with the improvement notice and shall give a copy of the notice to the tenant. 20 25 30</p> <p>(c) The notice under paragraph (b) does not preclude any inspection which the housing authority considers necessary in relation to the house concerned or the service of a further improvement notice which the authority may consider necessary. 35</p> <p>(6) A landlord aggrieved by an improvement notice may, within 14 days beginning on the day on which the notice is given to him or her, submit an objection to the notice in the form and manner specified in the notice, and the housing authority shall consider the objection and, as it sees fit, vary, withdraw or confirm the notice and shall notify the landlord in writing of the decision and the reasons for the decision within 14 days after receipt of the objection. 40 45</p> <p>(7) (a) The landlord may, no later than 14 days after the decision under subsection (6) is notified by the housing authority to him or her, appeal the decision to a judge of the District Court in the district court district in which the notice was served. 50</p> <p>(b) A landlord who appeals under paragraph (a) shall at the same time notify the housing authority in writing of the appeal and the grounds for the appeal. 55</p> <p>(c) The housing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.</p> <p>(d) In determining an appeal under paragraph (a), the judge of the District Court may confirm, vary or cancel the improvement 60</p>

Item	Provision affected	Amendment
(1)	(2)	(3)
5		notice if he or she considers it reasonable to do so.
10		(8) Where an objection is submitted under subsection (6) and no appeal is made under subsection (7) against the decision of the housing authority and the improvement notice is neither withdrawn nor cancelled, the notice takes effect on the later of the following: <ul style="list-style-type: none"> (a) the day after the day on which the notice is confirmed or varied; (b) the day after the objection is withdrawn by the landlord; (c) the date specified in the notice.
15		(9) Where an appeal is made under subsection (7) and the improvement notice is neither withdrawn nor cancelled, the notice takes effect on the later of the following: <ul style="list-style-type: none"> (a) the day after the day on which the notice is confirmed or varied on appeal; (b) the day after the appeal is withdrawn by the landlord; (c) the date specified in the notice.
20		(10) Where no objection is submitted under subsection (6) the improvement notice takes effect on the date specified in the notice.
25		(11) The housing authority may— <ul style="list-style-type: none"> (a) withdraw an improvement notice at any time, or (b) where no objection is submitted or appeal made or pending, extend the date specified in the notice for the purposes of subsection (2)(d).
30		(12) Withdrawal of an improvement notice under subsection (11) does not prevent the giving of another improvement notice, whether in respect of the same matter or a different matter.
35		Prohibition notice.
40		18B.—(1) Where a landlord fails to comply with an improvement notice in accordance with section 18A, the housing authority may give notice in writing (in this Act referred to as a “prohibition notice”) to the landlord of the house concerned.
45		(2) A prohibition notice shall— <ul style="list-style-type: none"> (a) state that the housing authority is of the opinion that the landlord has failed to comply with an improvement notice, (b) direct that the landlord shall not re-let the house for rent or other valuable consideration until the landlord has remedied the contravention to which the improvement notice relates, (c) include information regarding the making of an appeal in relation to the notice, specifying— <ul style="list-style-type: none"> (i) the form and manner of an appeal, and (ii) the address of the housing authority for
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Item	Provision affected	Amendment
(1)	(2)	(3)
		<p>the purpose of notifying the authority of an appeal under subsection (4),</p> <p>and</p> <p>(d) be signed and dated by the housing authority.</p> <p>(3) Where a prohibition notice is given under subsection (1), the housing authority shall give a copy to the tenant of the house concerned.</p> <p>(4) (a) A landlord aggrieved by a prohibition notice may, within 14 days beginning on the day on which the notice is given to him or her, appeal the notice to a judge of the District Court in the district court district in which the notice was served.</p> <p>(b) A landlord who appeals under paragraph (a) shall at the same time notify the housing authority in writing of the appeal and the grounds for the appeal.</p> <p>(c) The housing authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.</p> <p>(d) In determining an appeal under paragraph (a), the judge of the District Court may confirm, vary or cancel the prohibition notice if he or she considers it reasonable to do so.</p> <p>(5) A prohibition notice shall take effect—</p> <p>(a) in the case of an appeal under subsection (4), on the later of the following:</p> <p>(i) the day after the day on which the notice is confirmed or varied on appeal;</p> <p>(ii) the day after the appeal is withdrawn by the landlord;</p> <p>(iii) the expiry, whether by termination or otherwise, of the tenancy existing on the day on which the prohibition notice is given to the landlord,</p> <p>(b) in any other case on the later of the following:</p> <p>(i) the day after the expiry of the period allowed by subsection (4)(a) for making an appeal;</p> <p>(ii) the expiry, whether by termination or otherwise, of the tenancy existing on the day on which the prohibition notice is given to the landlord.</p> <p>(6) A landlord to whom a prohibition notice has been given who is of the opinion that the matters to which the notice relates have been remedied shall confirm in writing to the housing authority that those matters have been so remedied and shall give a copy of the confirmation to the tenant.</p> <p>(7) Where a landlord on whom a prohibition notice has been served confirms in writing to the housing authority in accordance with subsection (6) that the matters to which the notice relates have been remedied, the</p>

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Item	Provision affected	Amendment
(1)	(2)	(3)
5		housing authority, on being satisfied that the matters have been so remedied, shall, within 28 days of such confirmation, give written notice to the landlord of compliance with the prohibition notice and shall give a copy of the notice to the tenant of the house concerned.
10		(8) A housing authority may at any time withdraw a prohibition notice by notice in writing to the landlord to whom it was given.
15		(9) Withdrawal of a prohibition notice under subsection (8) does not prevent the giving of another prohibition notice.
		(10) A housing authority shall, in the interests of public health and safety, make such arrangements as they consider appropriate or necessary to bring the contents of a prohibition notice to the attention of the public.”.
20	6	Substitute the following for subsections (1) and (2):
25	Section 23	“(1) Subject to subsections (2) and (3), a reference in the <i>Housing Acts 1966 to 2008</i> , to a housing authority means, in the case of—
30		(a) a county, the county council,
35		(b) a city, the city council,
40		(c) a borough mentioned in Chapter 1 of Part 1 of Schedule 6 to the Act of 2001, except as respects—
45		(i) section 6 of the Act of 1979,
		(ii) sections 2 to 4, 6 and 7 of this Act,
		(iii) Part 2 of the Housing (Miscellaneous Provisions) Act 2002, and
		(iv) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008</i> ,
		the borough council and, as respects each of those sections, the county council in whose administrative area the borough is situate,
		(d) a town mentioned in Chapter 2 of Part 1 of Schedule 6 to the Act of 2001, except as respects—
		(i) section 6 of the Act of 1979,
		(ii) section 16 of the Act of 1988,
		(iii) sections 2 to 4, 6, 7 and 11 of this Act,
		(iv) Part 2 of the Housing (Miscellaneous Provisions) Act 2002, and
		(v) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008</i> ,
		the town council and, as respects each of those sections, the county council in whose administrative area the town is situate,
50		(e) a town mentioned in Part 2 of Schedule 6 to the Act of 2001, except as respects—
		(i) sections 34 to 36 and section 41 of the Principal Act,
		(ii) section 6 of the Act of 1979,

Item	Provision affected	Amendment
(1)	(2)	(3)
		<p>(iii) sections 2, 6, 10, 13 and 16 of the Act of 1988,</p> <p>(iv) sections 2 to 7, 10 to 12, 14, 17, 18, 20, 34 and 35 of this Act,</p> <p>(v) Part 2 of the Housing (Miscellaneous Provisions) Act 2002, and</p> <p>(vi) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008,</i></p> <p>the town council and, as respects each of those sections, the county council in whose administrative area the town is situate,</p> <p>and references to the functional area of a housing authority shall be construed accordingly.</p> <p>(2) A reference in the <i>Housing Acts 1966 to 2008</i> to a housing authority means, in the case of—</p> <p>(a) the boroughs of Drogheda, Sligo and Wexford, except as respects—</p> <p>(i) section 6 of the Act of 1979,</p> <p>(ii) sections 6 and 7 of this Act, and</p> <p>(iii) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008,</i></p> <p>the respective borough councils and, as respects each of those sections, the respective county councils in whose administrative areas those boroughs are situate,</p> <p>(b) the town of Bray, except as respects—</p> <p>(i) section 6 of the Act of 1979,</p> <p>(ii) sections 2 to 4, 6 and 7 of this Act,</p> <p>(iii) Part 2 of the Housing (Miscellaneous Provisions) Act 2002, and</p> <p>(iv) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008,</i></p> <p>the town council and, as respects each of those sections, the county council in whose administrative area that town is situate,</p> <p>(c) the towns of Athlone and Dundalk, except as respects—</p> <p>(i) section 6 of the Act of 1979,</p> <p>(ii) sections 6 and 7 of this Act, and</p> <p>(iii) <i>sections 14 to 18 of the Housing (Miscellaneous Provisions) Act 2008,</i></p> <p>the respective town councils and, as respects each of those sections, the respective county councils in whose administrative areas those towns are situate,</p> <p>and references to the functional area of a housing authority shall be construed accordingly.”.</p>

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Item	Provision affected	Amendment
(1)	(2)	(3)
7	Section 34	<p>(a) Substitute the following for subsection (1)—</p> <p>“(1) Any person who—</p> <p>(a) by act or omission, obstructs an authorised person in the lawful exercise of the powers conferred by, or contravenes a provision of, or a regulation made under, section 17, 18 or 20, or</p> <p>(b) fails to comply with an improvement notice, or</p> <p>(c) re-lets a house in breach of a prohibition notice,</p> <p>shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both and if the obstruction, contravention, failure to comply or re-letting is continued after conviction the person shall be guilty of a further offence on every day on which the obstruction, contravention, failure to comply or re-letting continues and for each such offence shall be liable, on summary conviction, to a fine not exceeding €400.”.</p> <p>(b) Insert the following subsection:</p> <p>“(3) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person to pay to the housing authority, the costs and expenses, measured by the court, incurred by the housing authority in relation to the investigation, detection and prosecution of the offence.”.</p>

PART 5

AMENDMENTS TO HOUSING (MISCELLANEOUS PROVISIONS) ACT 1997

Item	Provision affected	Amendment
(1)	(2)	(3)
1	Section 1(1)	<p>(a) In paragraph (b) of the definition of “anti-social behaviour”—</p> <p>(i) insert “alarm” after “damage”, and</p> <p>(ii) substitute the following for the words from “includes” to the end of the paragraph:</p> <p>“(i) violence, threats, intimidation, coercion, harassment or serious obstruction of any person,</p> <p>(ii) behaviour which causes any significant or persistent impairment of a person’s use or enjoyment of his or her home, or</p> <p>(iii) damage to or defacement by writing or other marks of any property, including a person’s home;”.</p> <p>(b) In the definition of “tenant” insert the following after “2000”:</p>

Item (1)	Provision affected (2)	Amendment (3)	
		“or to whom a dwelling is let under a Chapter 4 tenancy agreement (within the meaning of <i>Housing (Miscellaneous Provisions) Act 2008</i>)”.	
2	Section 3(1)	Insert the following after paragraph (a): “(aa) let to a tenant under a Chapter 4 tenancy agreement, or”.	5
3	Section 4A(b)	Substitute “section 30 of the <i>Housing (Miscellaneous Provisions) Act 2008</i> ” for “section 9 of the <i>Housing (Miscellaneous Provisions) Act 1992</i> ”.	10
4	Section 14	<p>(a) In subsection (1)—</p> <p>(i) delete the words from “Notwithstanding” down to and including “where” and substitute the following:</p> <p>“Notwithstanding anything contained in the <i>Housing Acts 1966 to 2008</i>, or in an allocation scheme made under section 22 of the <i>Housing (Miscellaneous Provisions) Act 2008</i>, a housing authority may refuse to allocate or defer the allocation of a dwelling, including a dwelling the subject of a rental accommodation availability agreement (within the meaning of that Act), to a person where”,</p> <p>(ii) in paragraph (a), substitute “an allocation” for “a letting”, and</p> <p>(iii) in paragraph (b), substitute “an allocation” for “an application for the letting”.</p> <p>(b) Substitute the following for subsection (2):</p> <p>“(2) Notwithstanding anything contained in—</p> <p>(a) section 90 of the <i>Housing Act 1966</i> (inserted by section 26 of the <i>Housing (Miscellaneous Provisions) Act 1992</i>) or a purchase scheme under the said section 90, or</p> <p>(b) <i>Part 3</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> or an incremental purchase arrangement under the said <i>Part 3</i>,</p> <p>a housing authority may refuse to sell a dwelling to a tenant or, in the case of an incremental purchase arrangement, to an eligible household (within the meaning of <i>Part 3</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i>), where the authority considers that the tenant or the eligible household or any member of the tenant’s household or of the eligible household, as the case may be, is or has been engaged in anti-social behaviour or that a sale to that tenant or eligible household would not be in the interest of good estate management.”.</p>	15 20 25 30 35 40 45 50
5	Section 15	Substitute the following for subsection (2): “(2) A housing authority may, for the purposes of any of their functions under the <i>Housing Acts 1966 to 2008</i> or <i>Part V</i> of the <i>Planning and Development Act 2000</i> , request	55

Item	Provision affected	Amendment
(1)	(2)	(3)
5		from another housing authority or a specified person, information in relation to any person—
10		(a) seeking a house or site from the authority or seeking to occupy a caravan on a site or residing or proposing to reside at a house provided by the authority or by an approved body, including a house the subject of a rental accommodation availability agreement, or seeking or receiving any other housing support (within the meaning of the <i>Housing (Miscellaneous Provisions) Act 2008</i>) under the <i>Housing Acts 1966 to 2008</i> , or
15		(b) whom the authority considers may be or may have been engaged in anti-social behaviour,
20		and, notwithstanding anything contained in any enactment, such other housing authority or specified person may provide the information to the housing authority requesting it.”.

PART 6

AMENDMENTS TO HOUSING (TRAVELLER ACCOMMODATION) ACT 1998

Item	Provision affected	Amendment
(1)	(2)	(3)
25	1	(a) Substitute the following for subsection (1):
30	Section 6	“(1) A relevant housing authority shall, for the purposes of preparing a programme under section 7, and at such other times as the Minister may by direction specify, in respect of the functional area concerned, make an assessment of the accommodation needs of travellers who are assessed under <i>section 20</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> as being qualified for social housing support (within the meaning of that Act), including the need for sites.”.
35		(b) Delete subsection (2).
40		(c) Substitute the following for subsection (3):
45		“(3) Before making an assessment under this section, a relevant housing authority shall give one month’s notice of their intention to do so to—
50		(a) every local authority whose administrative area adjoins, or is contained in, the functional area of the authority preparing a programme under section 7,
		(b) the Health Service Executive,
		(c) approved bodies engaged in the provision of accommodation or shelter in the functional area concerned,
		(d) any local consultative committee in the functional area concerned, and
		(e) such local community bodies in the

Item (1)	Provision affected (2)	Amendment (3)	
		functional area concerned and any other person, as the housing authority considers appropriate.”.	
		(d) In subsection (4), insert the following after paragraph (a): “(aa) any summary of social housing assessments prepared under <i>section 21(c)</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> ,”.	5
		(e) In subsection (6), substitute “in relation to any summary of social housing assessments referred to in subsection 4(aa), furnish such information” for “in relation to an assessment made by it under section 9 of the Act of 1988, furnish from the assessment such information”.	10
		(f) Delete subsection (7).	15
2	Section 10(2)	(a) In paragraph (a), delete the words from “and any” to the end of the paragraph. (b) In paragraph (b), substitute “in the most recent summary of social housing assessments prepared by a housing authority under <i>section 21(c)</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> ” for “in the most recent assessment made by a housing authority under section 9 of the Act of 1998”.	20 25

PART 7

AMENDMENTS TO PLANNING AND DEVELOPMENT ACT 2000

Item (1)	Provision affected (2)	Amendment (3)	
1	Section 94	(a) In subsection (2), substitute “summary of social housing assessments prepared under <i>section 21(a)</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> ” for “housing assessment or assessments made under section 9 of the Housing Act, 1988,”. (b) In subsection 4(a), substitute the following for subparagraph (i)— “(i) housing required for the provision of social housing support within the meaning of the <i>Housing (Miscellaneous Provisions) Act 2008</i> , and”.	30 35 40
2	Section 96(13)	In paragraph (a), substitute “required for households assessed under <i>section 20</i> of the <i>Housing (Miscellaneous Provisions) Act 2008</i> as being qualified for social housing support” for “for persons referred to in section 9(2) of the Housing Act, 1988”.	45
3	Section 99	In subsection (3A), substitute the following for paragraph (i): “(i) A planning authority may only enter into such an agreement if it considers that the agreement will— (i) enable the person to whom it is proposing to sell the house or land concerned in accordance with subsection (1) to obtain an	50

Item	Provision affected	Amendment
(1)	(2)	(3)
5		advance of moneys from the holder, society or institution referred to in paragraph (h) for the purposes of purchasing the house or land, or
10		(ii) enable a person to whom a house or land is sold in accordance with subsection (1) to—
		(I) refinance an existing advance of moneys from the holder, society or institution referred to in paragraph (h), or
		(II) obtain a further advance of moneys from the holder, society or institution referred to in paragraph (h), for any purpose.”.
15	4	Insert the following section after section 101 but in Part V:
20	New Section 101A	<p><i>“Non-application of certain provisions to sale or lease of affordable housing under this Part.</i></p> <p>101A.— Section 211(2) of this Act and section 183 of the Local Government Act 2001 shall not apply to the sale or lease of affordable housing to eligible persons under this Act.”.</p>

PART 8

AMENDMENTS TO HOUSING (MISCELLANEOUS PROVISIONS) ACT 2002

Item	Provision affected	Amendment
(1)	(2)	(3)
25	1	Substitute the following for subsection (1):
30	Section 6(1)	“(1) A housing authority shall make available affordable houses for sale in accordance with this Part and may acquire, build or cause to be built houses for that purpose.”.
35	2	Insert the following section after section 7:
	New Section 7A	<p><i>“Grant towards cost of provision of affordable houses.</i></p> <p>7A.— (1) The Minister may, with the consent of the Minister for Finance, pay, out of moneys provided by the Oireachtas, a grant towards the cost of the provision of affordable houses, to—</p> <p>(a) a housing authority in respect of affordable housing provided by the authority or by a body standing approved of for the purposes of section 6 of the Act of 1992 or other person, on its behalf, or</p> <p>(b) the Affordable Homes Partnership (established pursuant to the Affordable Homes Partnership (Establishment) Order 2005 (S.I. No. 383 of 2005)) in respect of affordable housing acquired or provided on behalf of housing authorities.”.</p>

Item	Provision affected	Amendment	
(1)	(2)	(3)	
3	Section 9(3A) (inserted by section 1 of the Housing (Miscellaneous Provisions) Act 2004)	<p>Substitute the following for paragraph (i):</p> <p>“(i) A housing authority may only enter into such an agreement if it considers that the agreement will—</p> <p>(i) enable the person to whom it is proposing to sell or allocate the affordable house concerned in accordance with this Part to obtain an advance of moneys from the holder, society or institution referred to in paragraph (h) for the purposes of purchasing that house, or</p> <p>(ii) enable a person who purchased an affordable house under this Part—</p> <p>(I) to refinance an existing advance of moneys from the holder, society or institution referred to in paragraph (h), or</p> <p>(II) to obtain a further advance of moneys from the holder, society or institution referred to in paragraph (h), for any purpose.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p>
4	Section 10	<p>Insert the following after subsection (3):</p> <p>“(3A)(a) As soon as practicable after a purchaser purchases the interest of the housing authority in the house, the housing authority shall make an order charging the house with an amount that shall be expressed in the order in the following terms.</p> <p>(b) Those terms are that the amount charged is an amount equal to the amount (if any) that may subsequently become payable under subsection (3)(a) in respect of the house.</p> <p>(c) An order under paragraph (a) shall be deemed to be a mortgage made by deed within the meaning of the Conveyancing Acts 1881 to 1911 and to have been executed, at the time of the purchase of the interest of the authority in the house in accordance with this section, in favour of the housing authority for a charge of the amount referred to in paragraph (b).</p> <p>(d) Accordingly, the housing authority shall, as on and from the making of such an order—</p> <p>(i) be deemed to be a mortgagee of the house for the purposes of the Conveyancing Acts 1881 to 1911, and</p> <p>(ii) have, in relation to the charge referred to in paragraph (c), all the powers conferred by those Acts on mortgagees under mortgages made by deed.</p> <p>(e) Where a housing authority makes an order under paragraph (a) it shall, as soon as practicable thereafter, cause the order to be registered in the Registry of Deeds or the Land Registry, as appropriate, and it shall be a sufficient description of the amount in respect of which the charge to which the order relates is being registered to state that amount to be the amount referred to in section 10(3A)(b) of the Housing (Miscellaneous Provisions) Act 2002.</p>	<p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p> <p>65</p>

Item	Provision affected	Amendment
(1)	(2)	(3)
5		(f) An order under paragraph (a) affecting a house which is registered land within the meaning of the Registration of Title Act 1964 shall be registrable as a burden affecting such land whether the person named in the order as the owner of the land is or is not registered under the said Act as the owner of the land.
10		(g) A housing authority may, subject to paragraph (h), enter into an agreement with a holder of a licence under the Central Bank Act 1971, a building society or other financial institution that a charge proposed to be created by it by an order under paragraph (a) shall have a priority, as against a mortgage or charge proposed to be created in favour of that holder, society or institution, that is different from the priority the charge would otherwise have if this paragraph had not been enacted.
15		(h) A housing authority may only enter into an agreement referred to in paragraph (g) if it considers that the agreement will—
20		(i) enable the purchaser to whom it is proposing to sell its interest in the house concerned in accordance with this section to obtain an advance of moneys from the holder, society or institution referred to in paragraph (g) for the purposes of purchasing that interest in the house, or
25		(ii) enable a purchaser who purchases the interest of the authority in the house concerned—
30		(I) to refinance an existing advance of moneys from the holder, society or institution referred to in paragraph (g), or
35		(II) to obtain a further advance of moneys from the holder, society or institution referred to in paragraph (g), for any purpose.
40		(i) Any amount that becomes payable to a housing authority under subsection (3)(a) may, without prejudice to any other power in that behalf, be recovered by the authority from the person concerned as a simple contract debt in any court of competent jurisdiction.
45		(j) For the avoidance of doubt, neither an order under paragraph (a) nor a charge that arises under it shall be regarded as a conveyance for the purposes of section 3 of the Family Home Protection Act 1976.”.
50		
5	New Section 10A	Insert the following new section after section 10 but in Part 2: <i>“Non-application of certain provisions to sale of affordable house.</i> 10A.— Section 211(2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of an affordable house to a purchaser (within the meaning of section 9 and 10, as appropriate).”.
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AMENDMENT TO CIVIL REGISTRATION ACT 2004

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AMENDMENTS TO RESIDENTIAL TENANCIES ACT 2004

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Item	Provision affected	Amendment
(1)	(2)	(3)
5		(i) the payment of rent, or any other charges or taxes payable by the tenant in accordance with the lease or tenancy agreement, or
10		(ii) compliance with section 16(f),
		and subparagraph (i) or (ii), as the case may be, of paragraph (a) does not apply, then there shall only be required to be returned or repaid under subsection (1)(d) the difference between the amount of rent or such other charges or taxes in arrears or, as appropriate, the amount of the costs that would be incurred in taking steps of the kind referred to in paragraph (a)(ii).”.
15	3	Section 135
		(a) Delete subsection (2).
		(b) In subsection (5), substitute “that the application is incomplete and invalid and shall return the application, any other information submitted with the application and any fee paid” for “of the omission concerned and afford him or her a reasonable opportunity to rectify the matter”.

PART 11

AMENDMENT TO SOCIAL WELFARE CONSOLIDATION ACT 2005

Item	Provision affected	Amendment
(1)	(2)	(3)
25	1	Section 265(1)
		Substitute the following for subparagraphs (i), (ii) and (iii) of paragraph (b) of the definition of “relevant purpose”—
		“(i) carrying out a social housing assessment under <i>section 20 of the Housing (Miscellaneous Provisions) Act 2008</i> ,
30		(ii) allocating a dwelling under <i>section 22 of the Housing (Miscellaneous Provisions) Act 2008</i> ,
		(iii) determining rent or any other charge under <i>section 31 of the Housing (Miscellaneous Provisions) Act 2008</i> ,”.

SCHEDULE 3

Section 29.

TERMS AND CONDITIONS OF TENANCY AGREEMENT

The following terms and conditions shall be included in every tenancy agreement:

- (a) the name of the tenant, or where there is more than one tenant, the names of those tenants;
- (b) the terms of the letting including restrictions on its purchase and occupation and conditions prohibiting vacating, subletting, assignment or otherwise parting with possession of the dwelling or any part of it;

- (c) conditions relating to, and procedures for, termination of the tenancy including for breach of any of the terms or conditions of the tenancy agreement;
- (d) details of the rent and any other charges payable, including procedures for rent review; 5
- (e) the times at which rent and any other charges are payable and the manner of their payment;
- (f) the procedures for recovering arrears, together with any interest payable thereon, of rent or any other charges payable; 10
- (g) the obligations of a tenant relating to maintenance in good repair and condition of the dwelling or site, including restrictions on the keeping of animals, the erection of signage or otherwise adapting or altering the dwelling; 15
- (h) restrictions on any change of use of the dwelling;
- (i) provision for such access as may reasonably be required by officers or agents authorised by the housing authority for the purpose of the performance by the housing authority of its functions under the *Housing Acts 1966 to 2008*; 20
- (j) the obligations of a tenant to avoid any nuisance to the occupiers of any other dwelling;
- (k) the procedures which apply where a tenant wishes to transfer to another dwelling provided by the authority; 25
- (l) terms and conditions—
 - (i) relating to anti-social behaviour, in or in the vicinity of the dwelling, by a tenant or any member of his or her household or any other person residing at or lawfully in the dwelling, and 30
 - (ii) prohibiting the tenant from knowingly permitting a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the dwelling concerned, to enter the dwelling in breach of the excluding order or interim excluding order, as the case may be. 35 40