SEANAD ÉIREANN

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

LEASUITHE A RINNE AN DÁIL
AMENDMENTS MADE BY THE DÁIL

The page and line references in this list of amendments are to the text of the Bill as passed by Seanad Éireann

[No. 41*a* of 2008] [30 June, 2009]

[Printers Reference]

SEANAD ÉIREANN

BILLE NA dTITHE (FORÁLACHA ILGHNÉITHEACHA) 2008
[BILLE SEANAID ARNA LEASÚ AG AN DÁIL]

HOUSING (MISCELLANEOUS PROVISIONS) BILL 2008
[SEANAD BILL AMENDED BY THE DÁIL]

Leasuithe a rinne an Dáil
Amendments made by the Dáil

TITLE

1. In page 5, line 14, after "AUTHORITIES;" the following inserted:

"TO PROVIDE FOR THE MAKING OF HOMELESSNESS ACTION PLANS;".

2. In page 5, line 17, "BY" deleted and "UNDER" substituted.

3. In page 5, line 18, after "ARRANGEMENTS;" the following inserted:

"TO PROVIDE FOR THE TENANT PURCHASE OF APARTMENTS; TO PROVIDE FOR THE SALE OF CERTAIN DWELLINGS UNDER AFFORDABLE DWELLING PURCHASE ARRANGEMENTS;".

4. In page 5, lines 22 to 29, all words from and including "TO PROVIDE" in line 22 down to and including "INTEREST;" in line 29 deleted.

5. In page 5, line 35, "THE SOCIAL WELFARE ACTS" deleted and "THE SOCIAL WELFARE CONSOLIDATION ACT 2005" substituted.

SECTION 1

6. In page 6, subsection (2), line 5, after "Act" "(other than *section 100#*)" inserted.

[*# This is a reference to the subsection inserted by amendment No 139.*]

7. In page 6, between lines 7 and 8, the following new subsection inserted:

"(3) *Section 100#* and, in so far as it relates to that section, this section shall be construed as one with the Residential Tenancies Acts 2004 and 2009 and shall be included in the collective citation "Residential Tenancies Acts 2004 and 2009".".

[*# This is a reference to the subsection inserted by amendment No 139.*]

[*SECTION 1*]

8. In page 6, subsection (3), line 8, after "Act", "(other than *section 100#*)" inserted.

[*# This is a reference to the subsection inserted by amendment No. 139.*]

SECTION 2

9. In page 6, subsection (1), lines 23 to 25 deleted and the following substituted:

" "affordable housing" means affordable dwellings purchased under affordable dwelling purchase arrangements under *Part 5#* or affordable housing provided under Part V of the Planning and Development Act 2000 or Part 2 of the Act of 2002, as the case may be;".

[*#This is a reference to the new Part inserted by amendment No. 115.*]

10. In page 7, subsection (1), between lines 2 and 3, the following inserted:

" "homelessness action plan" has the meaning given to it by *section 37#*;

"homelessness consultative forum" has the meaning given to it by *section 38#*;

"homeless person" means a person who is regarded by a housing authority as being homeless within the meaning of section 2 of the Act of 1988 and "homeless" and "homeless household" shall be construed accordingly;

"joint homelessness consultative forum" shall be read in accordance with *section 38#*;".

[*#These are references to the new sections inserted by amendments No. 48 and 49.*]

11. In page 7, subsection (1), lines 3 and 4 deleted and the following substituted:

" "household" means, subject to *sections 20* and *76#*, a person who lives alone or 2 or more persons who live together;".

[*#This is a reference to the new section inserted by amendment No. 121.*]

12. In page 7, subsection (1), between lines 19 and 20, the following inserted:

" "material improvements" means improvements made to—

(*a*) a dwelling sold under an incremental purchase arrangement under *Part 3*, or

(*b*) subject to *section 70(3)#*, a dwelling, sold under an affordable dwelling purchase arrangement under *Part 5#*,

whether for the purposes 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 the dwelling;"

[*SECTION 2*]

[*#This is a reference to the new Part inserted by amendment No. 115.*]

SECTION 3

13. In page 8, subsection (2)(*b*), line 11, after "areas," the following inserted:

"apartment complexes (within the meaning of *section 50#*),".

[*#This is a reference to the new section inserted by amendment No. 95.*]

SECTION 10

14. In page 8, subsection (2)(*b*), line 19, after "areas," the following inserted:

"apartment complexes (within the meaning of *section 50#*),".

[*#This is a reference to the new section inserted by amendment No. 95.*]

15. In page 10, between lines 10 and 11, the following inserted:

"(*b*) assistance, other than financial assistance or housing support, provided—

(i) in accordance with a homelessness action plan to households that were formerly homeless before their occupation of their current accommodation and, in the opinion of the housing authority, such assistance is necessary for the purposes of supporting those households in remaining in occupation of that accommodation, or

(ii) to tenants of dwellings to which *section 31(1)* applies,".

SECTION 11

16. In page 10, subsection (1), line 18, after "shops," the following inserted:

"facilities for the benefit of the community (including health and leisure facilities),".

SECTION 12

17. In page 11, subsection (1)(*g*), line 12, "housing services." deleted and the following substituted:

"housing services;

(*h*) such measures as may be taken by the housing authority pursuant to its homelessness action plan relating to the provision of assistance under *section 10(b)(i)*.".

[*SECTION 13*]

SECTION 13

18. In page 12, paragraph (*a*), line 8, after "*Part 3*" "or *4*" inserted.

19. In page 12, paragraph (*b*), line 9, after "*section 40*" " or *68#*" inserted.

[*#This is a reference to the new section inserted by amendment No. 113.*]

20. In page 12, between lines 11 and 12, the following inserted:

"(*d*) payments in respect of any amounts outstanding under *section 40#* or *67#*, as the case may be,".

[*#These are references to the new sections inserted by amendments No. 75 and 112.*]

SECTION 14

21. In page 12, subsection (3), line 33, "make"deleted and "adopt" substituted.

SECTION 15

22. In page 13, subsection (1), between lines 14 and 15, the following inserted:

"(*e*) the homelessness action plan adopted in accordance with *Chapter 6#* in respect of its administrative area;".

[*#This is a reference to the new chapter inserted by amendment No. 47.*]

SECTION 16

23. In page 14, subsection (1), between lines 18 and 19, the following inserted:

"(*e*) the homelessness consultative forum in its administrative area, or joint homelessness consultative forum, as the case may be,".

24. In page 15, subsection (6)(*a*), line 10, "made" deleted and "adopted" substituted.

SECTION 19

[*SECTION 19*]

25. In page 17, subsection (5), line 5, "with a person" deleted.

SECTION 20

26. In page 18, lines 8 to 18, subsection (5) deleted and the following substituted:

"(5) A household shall not be eligible for social housing support where—

(*a*) at any time during the 3 years immediately before the carrying out of the social housing assessment, the household or a member of the household was in arrears of rent for an accumulated period of 12 weeks or more in respect of any dwelling or site let to them by any housing authority under the *Housing Acts 1966 to 2009* or provided under Part V of the Planning and Development Act 2000, and

(*b*) the housing authority has not entered into an arrangement under *section 34* with the household or the member concerned for the payment of the moneys due and owing to the housing authority in respect of those arrears.".

27. In page 19, lines 1 to 7, subsection (9) deleted.

28. In page 19,subsection (10), line 9, "before the commencement of this section" deleted and "before the coming into operation of this section" substituted.

29. In page 19, between lines 11 and 12,the following subsection inserted :

"(11) A housing authority shall not be required to carry out a social housing assessment for the purposes of the sale of a dwelling under an incremental purchase arrangement (within the meaning of *section 36#*) to an eligible household (within the meaning of *paragraph (b)* of the definition of "eligible household" in *section 36#*).".

[*#These are references to the new section inserted by amendment No. 47.*]

SECTION 22

30. In page 21,subsection (13), lines 33 to 35, all words from and including "before" in line 33 down to and including "commencement" in line 35 deleted and the following substituted:

"before the coming into operation of this section continues to have effect after such coming into operation".

SECTION 25

31. In page 26, subsection (6)(*c*), line 16, "unless" deleted and "if"substituted.

[*SECTION 28*]

SECTION 28

32. In page 27, subsection (4)(*e*), line 41, "*Part 3*" deleted and "*Part 3 or 4*" substituted.

SECTION 31

33. In page 31, subsection (5)(*a*), line 28, to delete "its commencement" and substitute "its coming into operation".

34. In page 31, subsection (5)(*a*), line 26, after "rents", "and other charges" inserted.

35. In page 32, subsection (6), between lines 6 and 7, the following inserted:

"(*f*) the manner in which the charges referred to in *subsection (4)* shall be determined;".

36. In page 32, subsection (6)(*f*), line 7, after "rent","and other charges" inserted.

SECTION 32

37. In page 32, subsection (1)(*a*), line 21, "allocate" deleted and "provide" substituted.

38. In page 32, subsection (1)(*a*) line 23, "before the commencement of" deleted and "before the coming into operation of" substituted.

39. In page 32, subsection (1)(*c*), line 32, "after the commencement" deleted and "after the coming into operation" substituted.

40. In page 32, subsection (2)(*a*)(ii), line 44, "2007" deleted and "2008" substituted.

41. In page 33, between lines 38 and 39, the following subsection inserted:

"(6) (*a*) Without prejudice to *subsection (2)*, the Minister may make regulations for the purposes of—

(i) the purchase of a dwelling under an incremental purchase arrangement under *Part 3*,

(ii) the purchase of an apartment under *Part 4*#, or

(iii) the purchase of a dwelling under an affordable dwelling purchase arrangement under *Part 5*#.

(*b*) Regulations made under this subsection may provide for the following:

(i) the form and manner in which an application to purchase may be made, including by electronic means;

(ii) the information and particulars to be provided by a household applying to purchase and verification of such information and particulars;

(iii) the furnishing of such additional information as the housing authority considers appropriate for the purposes of considering the application;

(iv) the period within which the information and particulars, including any additional information, shall be provided by the household making the application, and

(v) such other matters as the Minister considers necessary and appropriate.".

[*#These are references to the new Parts inserted by amendments No. 87 and 115.*]

42. In page 33, subsection (6)(*a*), line 43, "*subsection (5)*" deleted and "*subsection (5)* or *(6)*, as the case may be," substituted.

SECTION 33

43. In page 34, subsection (1)(*a*), line 29 deleted and the following substituted:

"(*a*) *sections 28*, *31*, *32(8)* and *(9)*, *47(4)*, *48(5)* and *(6)*, *75(4)#*, *76(5)#*, *43* and *44*;".

[*#These are references to the new sections inserted by amendments No. 120 and 121.*]

44. In page 35, lines 1 and 2, subsection (5) deleted.

SECTION 35

45. In page 35, subsection (1), lines 19 and 20, "the commencement of" deleted and "the coming into operation of" substituted.

46. In page 35, subsection (1), between lines 25 and 26, the following inserted:

"(*b*) dwellings which are the subject of *Chapter 4* tenancy agreements,".

SECTION 36

47. In page 36, before section 36, but in part 2, the following new section inserted:

[*SECTION 36*]

"CHAPTER 6

Homelessness Action Plans

Interpretation (*Chapter 6*).

36.—In this Chapter—

"management group" has the meaning given to it by *section 39#*;

"responsible housing authority" has the meaning given to it by *section 38#*;

"specified body" means—

(*a*) an Foras Áiseanna Saothair,

(*b*) the Irish Prison Service, where there is a prison located in—

(i) the administrative area of the housing authority, or

(ii) in the case of a joint homelessness consultative forum, the administrative area of any housing authority concerned,

(*c*) the Probation Service,

(*d*) a vocational education committee within the meaning of section 7 of the Vocational Education Act 1930 whose functional area corresponds to—

(i) the administrative area of the housing authority, or

(ii) in the case of a joint homelessness consultative forum, the administrative area of any housing authority concerned,

and

(*e*) such other body as may be prescribed for the purposes of this Chapter.".

[*# These are references to the new sections inserted by amendments No. 49 and 50.*]

48. In page 36, before section 36, but in part 2, the following new section inserted:

"Homelessness action plan.

37.—(1) A housing authority shall, in respect of its administrative area, not later than 8 months after the coming into operation of this Chapter, adopt a plan (in this Act referred to as a "homelessness action plan") to address homelessness.

(2) A homelessness action plan shall specify the measures proposed to be undertaken to address homelessness in the administrative area or administrative areas concerned by the housing authority or housing authorities, as the case may be, the Health Service Executive, specified bodies, or approved bodies or other bodies providing services to address homelessness or the performance of whose functions may affect or relate to the provision of such services, including but not necessarily limited to measures to achieve the following objectives—

(*a*) the prevention of homelessness,

(*b*) the reduction of homelessness in its extent or duration,

(*c*) the provision of services, including accommodation, to address the needs of homeless households,

(*d*) the provision of assistance under *section 10(b)(i)*, as necessary, to persons who were formerly homeless, and

(*e*) the promotion of effective co-ordination of activities proposed to be undertaken by the bodies referred to in this subsection for the purposes of addressing homelessness in the administrative area or areas concerned.

(3) A homelessness action plan shall be in writing and shall take account of—

(*a*) any available information regarding the extent of the need for services to address homelessness, including, in the case of housing supports, any summary of social housing assessments prepared under *section 21* in respect of homeless households,

(*b*) the costs of the proposed measures referred to in *subsection (2)* and the financial resources that are available or are likely to be available for the period of the homelessness action plan to the housing authority or housing authorities concerned, the Health Service Executive or any specified body, as the case may be, for the purposes of undertaking those measures and the need to ensure the most beneficial, effective and efficient use of such resources,

(*c*) such policies and objectives for the time being of the Government or the Minister in so far as they may affect or relate to the provision of services to homeless persons, and

(*d*) such other matters as the Minister may specify in a direction given to the housing authority under *subsection (4)*, including (except in the case of the first homelessness action plan) a review of progress made in the implementation of the homelessness action plan during the period of the previous plan.

(4) (*a*) The Minister may, from time to time, give directions in writing to a housing authority for the purpose of either or both of the following—

(i) providing guidance as to the form and content of a homelessness action plan, and

(ii) specifying the period for which such a plan is to remain in force, which period shall not in any case be less than 3 years.

(*b*) The housing authority shall comply with any directions given under *paragraph* (*a*).".

49. In page 36, before section 36, but in part 2, the following new section inserted:

"Homelessness consultative forum.

38.—(1) Subject to *subsections (3)* and *(4)*, as soon as practicable after the coming into operation of this Chapter and having regard to *section 37#(1)*, a housing authority shall establish a body to be known as the homelessness consultative forum and shall appoint its members.

(2) The functions of a homelessness consultative forum are to provide information, views, advice or reports, as appropriate, to the management group in relation to—

(*a*) homelessness and the operation and implementation of the homelessness action plan in the administrative area concerned,

(*b*) the provisions of the draft homelessness action plan, and

(*c*) any proposed modification of the draft homelessness action plan pursuant to *section 40#(6)*.

(3) Where either or both of the conditions specified in *subsection* (*4)*(*a*) are met or where the Minister so directs pursuant to *subsection (4)(b)*, a housing authority shall enter into an arrangement with any other housing authority whose administrative area adjoins the administrative area of the housing authority concerned or with any other housing authority, as appropriate, to establish a joint homelessness consultative forum which shall perform the functions specified in *subsection (2)* in relation to the administrative areas of the housing authorities which are parties to the arrangement.

(4) (*a*) The conditions referred to in *subsection (3)* are that the housing authority considers that—

(i) a joint homelessness consultative forum would further the objectives of a homelessness action plan because of the extent or nature of homelessness in its administrative area, or

(ii) a joint homelessness consultative forum and the sharing of administrative services relating thereto would ensure the most beneficial, effective and efficient use of resources.

(*b*) The Minister may, where he or she considers it appropriate, direct housing authorities to enter into an arrangement pursuant to *subsection (3)* and the housing authorities shall comply with any such direction.

(5) In the case of an arrangement pursuant to *subsection (3)* for the establishment of a joint homelessness consultative forum, the housing authorities concerned shall, by agreement in writing, appoint one housing authority (in this Chapter referred to as the "responsible housing authority") for the purposes of the performance, on behalf of the housing authorities concerned, of their functions under this Chapter.

(6) A housing authority or, in the case of a joint homelessness consultative forum, the responsible housing authority, in accordance with such directions as the Minister may give under *section 41#*, shall appoint a chairperson of the homelessness consultative forum or joint homelessness consultative forum, as the case may be, from the membership thereof.

(7) The chairperson appointed under *subsection (6)* shall also be the chairperson of the management group.

(8) The membership of the homelessness consultative forum shall comprise the following persons:

(*a*) one or more than one employee of the housing authority or, in the case of a joint homelessness consultative forum, one or more than one employee of each of the housing authorities concerned nominated by the housing authority or housing authorities concerned, as the case may be;

(*b*) one or more than one employee of the Health Service Executive nominated by the Health Service Executive;

(*c*) subject to such directions as the Minister may give under *section 41#(1)(a)*, persons nominated by specified bodies, and

(*d*) subject to *subsection (9)*, persons nominated by—

(i) approved bodies, and

(ii) any other bodies,

providing services to homeless persons in the administrative area or, in the case of a joint homelessness consultative forum, administrative areas concerned or the performance of whose functions may affect or relate to the provision of such services, as the housing authority or responsible authority, as the case may be, consider appropriate in accordance with such directions as the Minister may give under *section 41#*.

(9) The number of persons referred to in *subsection (8)(d)* shall not exceed one half of the membership of the homelessness consultative forum or joint homelessness consultative forum, as the case may be.

(10) A homelessness consultative forum or joint homelessness consultative forum, as the case may be, shall regulate, by standing orders or otherwise, the meetings and proceedings of the forum.

(11) The housing authority or, in the case of a joint homelessness consultative forum, the housing authorities concerned, may provide such services and support relating to the operation of the homelessness consultative forum or joint homelessness consultative forum, as the case may be, as is considered necessary by the housing authority or housing authorities, in accordance with such directions as the Minister may give under *section 41#*.

(12) The proceedings of a homelessness consultative forum or joint homelessness consultative forum, as the case may be, shall not be invalidated by any vacancies among the membership.".

[# *These are references to the new sections inserted by amendments No. 48, 51 and 52.*]

50. In page 36, before section 36, but in part 2, the following new section inserted:

"Management group.

39.—(1) The housing authority or responsible housing authority, as the case may be, shall appoint a group (in this Chapter referred to as a "management group") consisting of certain members of the homelessness consultative forum or joint homelessness consultative forum, as the case may be, being such person or persons referred to in *section 38#(8)(a)*, *(b)* and *(c)* as the housing authority or responsible authority, as the case may be, considers appropriate in accordance with such directions as the Minister may give under *section 41#*.

(2) The management group may regulate, by standing orders or otherwise, its meetings and proceedings.

(3) The housing authority or responsible housing authority, as the case may be, may provide such services and support relating to the operation of the management group, as such housing authority considers appropriate, in accordance with such directions as the Minister may give under *section 41#*.

(4) The management group—

(*a*) shall perform the functions conferred on it by this Chapter in relation to the preparation and modification of the draft homelessness action plan and the review of the homelessness action plan, and

(*b*) may make recommendations to the housing authority or, in the case of a joint homelessness consultative forum, the housing authorities concerned, to the Health Service Executive or to any specified body, in relation to all or any of the following:

(i) services required to address homelessness in the administrative area or administrative areas concerned;

(ii) funding for such services taking into account the financial resources that are available or are likely to be available;

(iii) the operation of the homelessness action plan having regard to any information, views, advice or reports provided by the homelessness consultative forum or joint homelessness consultative forum, as the case may be.

(5) The proceedings of a management group shall not be invalidated by any vacancies among the membership.".

[*# These are references to the new sections inserted by amendments No. 49 and 52.*]

51. In page 36, before section 36, but in part 2, the following new section inserted:

"Preparation of draft plan and making of plan.

40.—(1) The manager of a housing authority or of a responsible housing authority, as the case may be, not later than 6 weeks after the coming into operation of this Chapter, shall send a request, in writing, to the chairperson of the management group to arrange for the preparation of a draft homelessness action plan in respect of the administrative area concerned or, in the case of a joint homelessness consultative forum, the administrative areas concerned.

(2) For the purposes of preparing a draft homelessness action plan under this section and before submission of the draft homelessness action plan pursuant to *subsection (3)*, the management group—

(*a*) shall consult—

(i) the other members of the homelessness consultative forum or joint homelessness consultative forum, as the case may be, and

(ii) any town council whose administrative area is contained in the administrative area of the housing authority, or, in the case of a joint homelessness consultative forum, in the administrative areas of the housing authorities, to which the plan relates,

and

(*b*) may consult any housing authority whose administrative area adjoins the administrative area of the housing authority concerned or, in the case of a joint homelessness consultative forum, the administrative areas of the housing authorities concerned.

(3) Not later than 10 weeks from the date on which the request referred to in *subsection (1)* is sent, the management group shall approve and submit the draft homelessness action plan to the housing authority or, in the case of a joint homelessness consultative forum, each of the housing authorities concerned for adoption.

(4) Subject to *subsections (5)* to *(8)*, the housing authority, or, in the case of a joint homelessness consultative forum, each of the housing authorities concerned, shall adopt the homelessness action plan within 6 weeks of receipt of the draft homelessness action plan, with or without modification.

(5) Where any part of a draft homelessness action plan relates to the functions of the Health Service Executive or of a specified body, the housing authority, or responsible housing authority, as the case may be, shall send a request in writing to the chairperson of the management group to seek its approval to any proposed modification pursuant to *subsection (4)* in respect of such part of the draft plan.

(6) The management group, not later than 3 weeks from the date on which the request referred to in *subsection (5)* is sent, following consultation with the other members of the homelessness consultative forum, or joint homelessness consultative forum, as the case may be, shall—

(*a*) accept or reject the proposed modification referred to in *subsection (5)*, and

(*b*) notify, in writing, the housing authority or responsible housing authority, as the case may be, of the decision and the reasons for that decision.

(7) The housing authority or, in the case of a joint homelessness consultative forum, each of the housing authorities concerned, shall adopt the homelessness action plan not later than 6 weeks from the date on which the notification under *subsection (6)* is sent, with the modification, in a case where it is accepted by the management group, or without the modification, in a case where it is rejected.

(8) Where the housing authority or, in the case of a joint homelessness consultative forum, any of the housing authorities concerned, fail to adopt the homelessness action plan in accordance with this section, the manager of each housing authority, as appropriate, shall, by order, as soon as practicable and in any event not later than the end of the period referred to in *section 37#(1)*, adopt the draft homelessness action plan in accordance with *subsection (4)* or *(7)*, as appropriate.

(9) The housing authority or responsible housing authority, as the case may be, shall—

(*a*) give a copy of the homelessness action plan to the Minister and each member of the homelessness consultative forum or joint homelessness consultative forum, as the case may be, as soon as practicable after it is adopted,

(*b*) make the homelessness action 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,

(*c*) on request by any person, provide a copy of the homelessness action plan at a price not exceeding the reasonable cost of reproduction, and

(*d*) publish and maintain a copy of the homelessness action plan on the Internet for the period of the plan.

(10) A housing authority or responsible housing authority, as the case may be, may, at any time, and shall, in any case, not less than 8 months before the end of the period of the homelessness action plan decide to arrange for—

(*a*) the review and, where appropriate, amendment of the homelessness action plan, or

(*b*) the preparation and adoption of a new homelessness action plan.

(11) Where a housing authority or responsible housing authority, as the case may be, makes a decision for the purposes of *subsection (10)*, the manager of the housing authority or responsible housing authority, as the case may be, shall send a request in writing to the chairperson of the management group to arrange for the review of the homelessness action plan or the preparation of a new homelessness action plan and *subsections (2)* to *(9)* shall apply accordingly with any necessary modifications.

(12) Subject to *subsection (8)*, the adoption or amendment of a homelessness action plan is a reserved function.

(13) (*a*) Notwithstanding *section 37#(1)*, where, before the coming into operation of this Chapter, a housing authority has adopted a plan which meets the conditions specified in *paragraph (b)*, then such a plan is deemed to be a homelessness action plan duly adopted by the housing authority for the purposes of this Chapter.

(*b*) The conditions referred to in *paragraph* (*a*) are that the plan—

(i) specifies the measures proposed to be undertaken to achieve the objectives of a homelessness action plan specified in *section 37#(2)*, and

(ii) does not expire before the end of one year after the date of coming into operation of this Chapter.".

[*#This is a reference to the new section inserted by amendment No. 48.*]

52. In page 36, before section 36, but in part 2, the following new section inserted:

"Ministerial directions.

41.—(1) The Minister may give directions to a housing authority or responsible housing authority, as the case may be, in relation to all or any of the following:

(*a*) the number of members and composition, including an appropriate gender balance, of a homelessness consultative forum or joint homelessness consultative forum, as the case may be;

(*b*) the number of members and composition of a management group;

(*c*) the period of appointment of the members of a homelessness consultative forum or joint homelessness consultative forum, as the case may be, and the management group;

(*d*) the terms and conditions of appointment (including terms and conditions relating to removal, resignation, the filling of casual vacancies and re-appointment) of the members of a homelessness consultative forum or joint homelessness consultative forum, as the case may be, and the management group;

(*e*) the appointment of the chairperson of a homelessness consultative forum or of the joint homelessness consultative forum, as the case may be;

(*f*) services and support relating to the operation of the homelessness consultative forum, joint homelessness consultative forum or management group, as the case may be.

(2) A housing authority or responsible housing authority, as the case may be, shall, in the performance of its functions under this Chapter, comply with any directions given by the Minister under *subsection (1)*.".

53. In page 36, before section 36, but in part 2, the following new section inserted:

"Power of Minister to prescribe body as specified body.

42.—The Minister may prescribe any body which provides services to address homelessness or the performance of whose functions may affect or relate to the provision of such services to be a specified body and any body so prescribed shall be a specified body for the purposes of this Chapter.".

54. In page 36, between lines 35 and 36, the following inserted:

" "charged period" has the meaning given to it by *section 39*;".

55. In page 36, between lines 35 and 36, the following inserted:

" "charged share" has the meaning given to it by *section 39*;".

56. In page 37, lines 3 to 5,paragraph (*b*) deleted and the following substituted:

"(*b*) subject to *subsection (2)*, 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;".

57. In page 37, line 11, after "market" the following inserted:

"and, in a case where the site for the dwelling was provided to the housing authority by the eligible household for a nominal sum, excludes an amount equal to the excess (if any) of the market value of the site over such sum".

[*SECTION 36*]

58. In page 37, lines 12 to 16 deleted.

59. In page 37, lines 20 to 27 deleted and the following substituted:

" "purchase money", in relation to a dwelling to which this Part applies, means the monetary value of the proportion of the purchase price of the dwelling fixed by the housing authority, in accordance with regulations made under *section 41* for the purposes of calculating the purchase money, as the proportion that is required to be paid to purchase the dwelling;".

60. In page 37, between lines 27 and 28, the following inserted:

" "purchase price", in relation to a dwelling to which this Part applies, means the price of the dwelling determined by a housing authority in accordance with regulations made under *section 41* for the purposes of calculating the purchase price;".

61. In page 37, between lines 34 and 35, the following subsection inserted:

"(2) A housing authority shall not proceed with the sale of a dwelling under an incremental purchase arrangement to a household referred to in *paragraph (b)* of the definition of "eligible household"in *subsection (1)* where—

(*a*) at any time during the 3 years immediately before applying to the authority to purchase a dwelling under this Part, the household was in arrears of rent for an accumulated period of 12 weeks or more in respect of any dwelling or site let to them by any housing authority under the *Housing Acts 1966 to 2009* or provided under Part V of the Planning and Development Act 2000, and

(*b*) the housing authority has not entered into an arrangement under *section 34* with the household for the payment of the moneys due and owing to the housing authority in respect of those arrears.".

SECTION 37

62. In page 37, lines 35 to 48 deleted and in page38, lines 1 to 7 deleted and the following new section substituted:

"Application of *Part 3* to certain dwellings.

37.—(1) Subject to *subsection (2)*, this Part applies to a dwelling—

(*a*) provided by a housing authority under the *Housing Acts 1966 to 2009* 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—

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

(ii) which has not previously been let in accordance with an allocation scheme and is vacant on the coming into operation of this Part,

and

(*b*) and which is of a class of dwelling prescribed for the purposes of this Part as being a class of dwelling to which an incremental purchase arrangement may apply.

(2) (*a*) This Part does not apply to a dwelling referred to in *subsection (1)* which is—

(i) an apartment in a designated apartment complex, or

(ii) a dwelling which is a separate and self-contained apartment in a premises, divided into 2 or more apartments, which requires arrangements for the upkeep and management of all or any part of the common areas, structures, works or services other than by the purchaser.

(*b*) For the purposes of *paragraph (a)(i)*, "apartment" and "designated apartment complex" have the same meaning as they have in *section 42#*.".

[*#This is a reference to the new section inserted by amendment No. 87.*]

SECTION 38

63. In page 38, lines 8 to 51 deleted, and in page 39, lines 1 to 12 deleted and the following new section substituted:

"Sale of dwelling by incremental purchase arrangement.

38.—(1) Subject to and in accordance with this Part and the *Housing Acts 1966 to 2009* and subject to such regulations as may be made under *section 41*, a housing authority or an approved body may enter into an arrangement (in this Part referred to as an "incremental purchase arrangement") with an eligible household whereby, in consideration of the receipt by the housing authority of the purchase money, the housing authority may sell a dwelling to which this Part applies, in the state of repair and condition existing on the date of sale, to the eligible household, by means of an order (in this Part referred to as a "transfer order"), in the prescribed form, which shall be expressed and shall operate to vest, on the date specified in the order, the interest specified in the order, in accordance with the terms and conditions specified in *subsection (2)* and the terms and conditions of a charging order.

(2) The terms and conditions referred to in *subsection (1)* shall include the following:

(*a*) that where the purchaser sells the dwelling to a person other than a housing authority or approved body during the charged period, the purchaser shall pay to the authority or approved body, as appropriate, an amount calculated in accordance with *section 40(6) or (7)*;

(*b*) that the dwelling shall, during the charged period, 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 of a member of the purchaser's household;

(*c*) that the dwelling or any part thereof shall not, during the charged period, without the prior written consent of the housing authority or approved body, as the case may be, 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, during the charged period, without the prior written consent of the housing authority or approved body, as the case may be, 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;

(*f*) such other terms and conditions relating to the sale of the dwelling as may be prescribed for the purposes of a transfer order.

(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.

(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.

(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.".

SECTION 39

64. In page 39, subsection (1), line 15, after "shall" the following inserted:

", subject to such regulations as may be made under *section 69*#,".

[#*This is a reference to the new section inserted by amendment No. 114.*]

[*SECTION 39*]

65. In page 39, subsection (1), line 16, before "charging" where it secondly occurs, ", in the prescribed form," inserted.

66. In page 39, subsection (1), line 18, after "order" the following inserted:

"(in this Part referred to as the "charged period")".

67. In page 39, subsection (2), line 21, "section" deleted and "Part" substituted.

68. In page 39, subsection (4)(*a*), line 34, "*paragraph (b)*" deleted and "*paragraph (b)* and *section 40#*" substituted.

[*#This is a reference to the new section inserted by amendment No. 75.*]

69. In page 39, subsection (4)(*a*), lines 38 and 39, after "purchaser", "or a member of his or her household" inserted.

—

70. In page 39, subsection (4)(*a*), line 42 deleted and the following substituted:

"(ii) subject to *section 40#*, the expiration of the charged period.".

[*#This is a reference to the new section inserted by amendment No. 75.*]

71. In page 39,subsection (4)(*b*), line 46, after "purchaser" to insert "or a member of his or her household".

72. In page 40, lines 1 to 10, subsection (5) deleted and the following substituted:

"(5) The housing authority or approved body, as the case may be, shall, at any time where requested by the purchaser, give a statement in writing, in the prescribed form, to the purchaser indicating the accumulated amount of incremental releases that have been applied under the charging order.".

73. In page 41, subsection (12), line 8, "*section40(6)* or *(7)*," deleted and "*section 47#* or *48#*" substituted.

[*#These are references to the new sections inserted by amendments No. 92 and 93.*]

74. In page 41, lines 15 to 18, subsection (14) deleted and the following substituted:

"(14) (*a*) On the occurrence of the earlier of the events specified in *subsection (4)(a)* and subject to the terms and conditions of the transfer order and of the charging order having been complied with, the housing authority or approved body, as the case may be, shall, where requested to do so by the purchaser, execute a deed of discharge in respect of the charging order.

(*b*) The housing authority or approved body, as the case may be, shall be liable for any expenses incurred in the execution and registration of a deed of discharge but shall not otherwise be liable for any expenses incurred by a purchaser under this section or under *section 47#* or *48#*.".

[*#These are references to the new sections inserted by amendments No. 92 and 93.*]

SECTION 40

75. In page 41, between lines 18 and 19, before section 40, the following new section inserted:

"Suspension of reduction of charged share.

40.—(1) A housing authority or approved body, as the case may be, may suspend the reduction of the charged share provided for under *section 39* in respect of any year ending on the anniversary of the transfer order, where the purchaser fails to comply with any of the terms and conditions of the transfer order.

(2) Where the housing authority or approved body suspends the reduction of the charged share under *subsection (1)*, the charged share on the dwelling shall be calculated in accordance with the following formula:

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

where—

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

(*b*) Z is the purchase price of the dwelling at the time of sale to the purchaser, and

(*c*) R is the portion of the charged share that has been released in accordance with this subsection.

(3) (*a*) Where a housing authority or approved body has suspended the reduction of the charged share under *subsection (1)*, the housing authority or approved body, as appropriate, shall, as soon as practicable thereafter, notify the purchaser in writing of the suspension and the reasons for the suspension.

(*b*) The housing authority or approved body, as the case may be, shall, on the expiration of the charged period, give a statement to the purchaser in writing, in the prescribed form, indicating the amount of the charge outstanding under the charging order on the date of expiration of the charged period, which amount shall be expressed as a percentage of the market value of the dwelling, equivalent to the charged share of the housing authority or approved body, as appropriate, in the dwelling on that date calculated in accordance with *subsection (2)*.

(4) (*a*) The purchaser shall, within 2 months of receipt of the statement referred to in *subsection (3)*, pay to the housing authority the amount set out in the statement.

(*b*) Where the purchaser fails to pay the amount referred to in *paragraph (a)*, *section 39(12)* applies.

(5) For the purposes of this section, "market value" means the price for which a dwelling might reasonably be expected to be sold on the date of expiration of the charged period, in its existing state of repair and condition and not subject to the conditions specified in *section 38(2)#* or to a charging order.

(6) (*a*) For the purposes of this section, the market value of a dwelling shall be determined by the housing authority or approved body, as appropriate, or, where the purchaser does not agree with the market value so determined, by an independent valuer nominated by the purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under *section 49*.

(*b*) The housing authority or approved body shall not be liable for any expenses incurred by the purchaser under *paragraph (a)*.".

[#*This is a reference to the new section inserted by amendment No. 63.*]

76. In page 41, subsection (1) line 20, "under *section 39*" deleted.

77. In page 41, lines 30 to 33, subsection (3) deleted.

78. In page 41, subsection (4), line 37, "are" deleted and "is" substituted.

79. In page 41, subsection (4)(*b*), line 39, "intended purchaser" deleted and "said person" substituted.

80. In page 42, subsection (6), lines 9 and 10, "during the period of the charging order" deleted and "during the charged period" substituted.

81. In page 42, between lines 27 and 28, the following subsection inserted:

"(9) (*a*) Subject to *paragraph (b)*, where a purchaser resells a dwelling which is subject to a charging order the charged period of which has expired and in respect of which the amount referred to in *section 40#(3)* has not been paid in accordance with that section, *section 39(12)* applies.

(*b*) No account shall be taken of any material improvements made to the dwelling after the expiration of the charged period.".

[*SECTION 40*]

[#*This is a reference to the new section inserted by amendment No. 75.*]

82. In page 42, between lines 50 and 51, the following subsection inserted:

"(12) The housing authority or approved body, as the case may be, shall not be liable for any expenses incurred by a vendor under *subsection (11)*.".

SECTION 41

83. In page 43, lines 5 and 6, paragraph (*c*) deleted and the following substituted:

"(*c*) the method for determining the purchase price of a dwelling which method may—

(i) differentiate between different classes of dwelling, and

(ii) take account of the age of the dwelling;".

84. In page 43, paragraph (*g*), line 22, after "order", "and a charging order" inserted.

85. In page 43, paragraph (*h*), line 26, after "may be", ", for the purposes of this Part" inserted.

86. In page 43, between lines 26 and 27, the following inserted:

"(*i*) the form of the statement for the purposes of *sections 39(5*) and *40(3)#*;".

[#*This is a reference to the new section inserted by amendment no. 75.*]

SECTION 42

87. In page 43, before section 42, but in Part 3, the following new section inserted:

"PART 4#

TENANT PURCHASE OF APARTMENTS

Interpretation. 42.—(1) In this Part—

"apartment" means a separate and self-contained dwelling in an apartment complex which requires arrangements for the upkeep and management of all or any part of the common areas, structures, works or services other than by the owner of the apartment;

"apartment assignment order" has the meaning given to it by *section 56(2)#*;

"apartment complex" means land on which there stands erected a building or buildings, comprising or together comprising not less than 5 apartments (but not including any community apartment) and the common areas, structures, works and services;

"apartment complex service charge" has the meaning given to it by *section 59(1)#* and "service charge" shall be construed accordingly;

"apartment complex support fund" has the meaning given to it by *section 62#*;

"apartment complex transfer order" has the meaning given to it by *section 59#*;

"apartment owner", in relation to an apartment (including a community apartment) in a designated apartment complex, means, subject to *section 57(1)(b)#*—

(*a*) an apartment purchaser, or

(*b*) the housing authority, in the case of an apartment which has not been sold by the housing authority—

(i) under section 90 of the Principal Act, whether before or after the coming into operation of this Part, or

(ii) under this Part and any regulations made thereunder;

"apartment purchaser" means, subject to *section 68#*, a person who purchases an apartment under this Part and includes a person in whom there subsequently becomes vested the interest of the apartment purchaser or his or her successor in title and the personal representative of that person or successor in title and references to "purchaser" shall be construed accordingly;

"apartment transfer order" has the meaning given to it by *section 60#*;

"charging order" has the meaning given to it by *section 66#*;

"charged period" has the meaning given to it by *section 66#*;

"charged share" has the meaning given to it by *section 66#*;

"common areas, structures, works and services" means, in relation to an apartment complex, areas, structures, works and services that are, or are intended to be, common to apartments (including community apartments) in the apartment complex and enjoyed therewith, including where relevant access and side roads, architectural features, circulation areas, footpaths, internal common stairways, open spaces, parking areas, utility rooms and that portion of the roof or exterior of any building not intended to form or not forming part of any individual apartment;

"community apartment" means an apartment in an apartment complex that is authorised by the housing authority to be used for activities for the common benefit or enjoyment of the occupiers of apartments in the apartment complex;

"current market value" means the price for which an apartment might reasonably be expected to be sold, on the open market, on the date of sale under *section 68#*, in its existing state of repair and condition and not subject to the conditions specified in *section 56(5)#* or to a charging order;

"designated apartment complex" has the meaning given to it by *section 47(1)#*;

"financial year", in relation to a management company, means a period of 12 months ending on 31 December in any year, and, in the case of the first financial year of a management company, means the period commencing on the expiry of the period specified in *section 55(1)#* and ending on 31 December next following;

"initial selling period" has the meaning given to it by *section 48(2)#*;

"management company" has the meaning given to it by *section 49(2)#*;

"management company annual charges" has the meaning given to it by *section 61#*;

"member" means a member of the management company;

"property management services" means services in respect of the management of an apartment complex carried out on behalf of a management company, and such services include—

(*a*) administrative services, and

(*b*) the procurement of or any combination of the maintenance, servicing, repair, improvement or insurance of the apartment complex or any part or parts of the apartment complex;

"purchase money", in relation to an apartment, means the monetary value of the proportion of the purchase price of the apartment fixed by the housing authority, in accordance with regulations made under *section 69#* for the purposes of calculating the purchase money, as the proportion that is required to be paid to purchase the apartment;

"purchase price", in relation to an apartment, means the price of the apartment determined by a housing authority in accordance with regulations made under *section 69#* for the purposes of calculating the purchase price;

"*section 45#* proposal" has the meaning given to it by *section 45#*;

"sell", in relation to an apartment, means to sell or assign a leasehold estate or interest;

"sinking fund" has the meaning given to it by *section 60(1)#*;

"sinking fund contribution" has the meaning given to it by *section 60(3)#*;

"tenant" means the tenant of an apartment pursuant to a tenancy agreement between the household and a housing authority.

(2) Save where otherwise provided for by this Part—

(*a*) references in this Part to an apartment, shall not include a community apartment, and

(*b*) references in this Part to a tenant, shall not include any tenant of a community apartment.

(3) In this Part, save where the context otherwise requires, a reference to a transfer of ownership shall be construed as a reference to a deed of transfer, conveyance or assignment.".

[*#Note: This new Part comprehended the inclusion of amendments No. 87 to 133.*]

[*SECTION 42*]

[*#These are references to the new sections inserted by amendments No. 101, 104, 107, 102, 113, 105, 111, 92, 100, 93, 94, 106, 114, 90 and 105.*]

88. In page 43, before section 42, but in Part 3, the following new section inserted:

"Consideration of designation of apartment complex.

43.—(1) Subject to and in accordance with this Part and any regulations made thereunder, a housing authority may propose to designate an apartment complex for the purpose of making all of the apartments comprised therein, in respect of which the housing authority is the apartment owner, available for sale to the tenants thereof, under this Part and any regulations made thereunder, where the housing authority is satisfied that the conditions specified in *subsection (2)* are met.

(2) The conditions referred to in *subsection (1)* are that—

(*a*) the housing authority considers that the sale of the apartments concerned is consistent with good estate management and management of its overall dwelling stock in accordance with the policy objectives set out in its housing services plan relating to the management and maintenance of dwellings owned by the housing authority,

(*b*) the apartment complex is suitable for designation having regard to, but not necessarily limited to, the following—

(i) the configuration of the apartment complex by reference to its design and layout and to the common areas, structures, works and services,

(ii) the annual cost of managing and maintaining the apartment complex and providing for future capital works to preserve and improve the apartment complex, and

(iii) the number of apartments available for sale,

(*c*) the housing authority is satisfied, in a case where structural work has been carried out on the apartment complex within the previous 10 years or, in any other case, where a survey of the structural condition of the apartment complex has been carried out within the previous 5 years, that the apartment complex is in good structural condition, order and repair,

(*d*) with respect to the apartment complex concerned, neither the housing services plan nor the housing action programme contain—

(i) proposals to carry out reconstruction or improvement works by virtue of section 12 of the Act of 1988, or

(ii) plans for the regeneration of the area in which the apartment complex is situated;

(*e*) good and marketable title may be transferred to a management company under *section 51#* for the purposes of this Part, and

(*f*) none of the apartments in the apartment complex is of a class excluded from sale under this Part by regulations made under *section 69#*.".

[*#These are references to the new sections inserted by amendments No. 96 and 114.*]

89. In page 43, before section 42, but in Part 3, the following new section inserted:

"Preparation of draft proposal to designate apartment complex.

44.—(1) Where a housing authority proposes to designate an apartment complex, the housing authority shall prepare a draft proposal, which shall—

(*a*) specify the apartment complex which it is proposed to designate,

(*b*) include information relating to the arrangements for—

(i) holding a tenant plebiscite in respect of the proposed designation of the apartment complex within 3 months of the adoption by the housing authority of a *section 45#* proposal,

(ii) transferring ownership of the apartment complex to a management company,

(iii) the sale of apartments in the apartment complex to the tenants of those apartments,

(iv) managing and maintaining the common areas, structures, works and services in the apartment complex, and

(v) funding expenditure of a type referred to in *section 60(1)#*,

(*c*) include information relating to the terms and conditions of sale of an apartment in the apartment complex to the tenant thereof, including—

(i) the obligation to pay the management company annual charges and the estimated level thereof in the first year after purchase,

(ii) the restrictions on resale of an apartment by an apartment purchaser, and

(iii) the covenants in the apartment assignment order and the consequences for the apartment purchaser of failure to observe same,

(*d*) include information relating to the performance by the housing authority of its functions in respect of apartments in the apartment complex the subject of tenancy agreements between the housing authority and the tenants thereof,

(*e*) set out indicative figures for the projected purchase price and purchase money for the different classes of apartment in the apartment complex, and

(*f*) include any other information that the authority considers relevant to the draft proposal.

(2) The housing authority shall—

(*a*) publish and maintain on the Internet a copy of a draft proposal under this section to designate an apartment complex,

(*b*) make the draft proposal 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,

(*c*) give notice of the draft proposal to—

(i) each tenant of an apartment in the apartment complex, and

(ii) each member of the housing authority.

(3) A housing authority shall take such steps as it considers appropriate for the purposes of informing tenants and seeking their views about a draft proposal under this section to designate an apartment complex including but not limited to—

(*a*) the holding of an information meeting or meetings about the draft proposal, and

(*b*) arranging to meet with individual tenants, as appropriate, on request, regarding the draft proposal.

(4) For the purposes of *subsection (1)(a)*, the draft proposal may include a map that clearly indicates the boundaries, common areas, structures, works and services of the apartment complex concerned.".

[#*These are references to the new sections inserted by amendments No. 90 and 105*.]

90. In page 43, before section 42, but in Part 3, the following new section inserted:

"Proposal to designate apartment complex.

45.—(1) Where, subject to the conditions specified in *section 43(2)#* continuing to be satisfied and having regard to the views of the tenants concerned expressed at information meetings or otherwise under *section 44(3)#*, the manager decides to proceed with the proposal to designate the apartment complex, the manager shall submit the draft proposal to the members of the housing authority with or without such modifications as the manager considers appropriate.

(2) Where the manager decides not to proceed with the proposal to designate an apartment complex—

(*a*) because any condition specified in *section 43(2)#* is no longer satisfied,

(*b*) having regard to the views of the tenants concerned expressed at information meetings or otherwise under *section 44(3)#*, or

(*c*) for any other reason,

the manager shall advise the tenants concerned and the members of the housing authority of his or her decision and the reasons for that decision.

(3) The housing authority may, with or without modification, adopt the draft proposal, submitted to it under *subsection (1)*, to designate the apartment complex (in this Part referred to as a "*section 45#* proposal").

(4) The adoption under this section of a *section 45#* proposal is a reserved function.".

[*SECTION 42*]

[#*These are references to the new sections inserted by amendments No. 88, 89 and 90.*]

91. In page 43, before section 42, but in Part 3, the following new section inserted:

"Tenant plebiscite. 46.—(1) Where a housing authority adopts a *section 45*# proposal, it shall hold a tenant plebiscite in respect of the apartment complex concerned within the period specified in the proposal and in accordance with this section and any regulations made thereunder for the purpose of ascertaining the level of—

(*a*) support for the designation of the apartment complex, and

(*b*) willingness of tenants who purchase apartments in the apartment complex under this Part to serve as directors of the management company.

(2) (*a*) Subject to *paragraph (b)*, each apartment in the apartment complex concerned shall be afforded one vote in the plebiscite.

(*b*) Where an apartment has been sold by the housing authority under section 90 of the Principal Act, whether before or after the coming into operation of this Part, the apartment shall not be included for the purposes of a tenant plebiscite under this section.

(3) A vote under *subsection (2)* may only be exercised—

(*a*) by the tenant of the apartment at the time of the plebiscite, and

(*b*) by completing and returning a ballot paper in the form and manner prescribed under *subsection (6)*.

(4) In the case of an apartment where there are 2 or more tenants—

(*a*) they shall be considered as one tenant for the purposes of *subsection (3)(a)*,

(*b*) they are not entitled to vote in the plebiscite unless a majority of them concurs, and

(*c*) unless the vote is signed by a majority of them, it shall be disregarded for the purposes of the plebiscite.

(5) Not later than 2 months after the adoption of the proposal to designate the apartment complex, the housing authority shall send to the tenants concerned, by ordinary post or any other means that may be prescribed under *subsection (6)*, all ballot papers for completion under *subsection (3)* together with a copy of the *section 45*# proposal and any other explanatory material it considers relevant.

(6) The Minister may make regulations—

(*a*) relating to and governing the conduct of a tenant plebiscite,

(*b*) prescribing the form of a ballot paper under this section and the manner in which it is to be completed and returned, and

(*c*) prescribing means other than post for the delivery and return of ballot papers under this section.

[*SECTION 42*]

[#*This is a reference to the new section inserted by amendment No. 90.*]

92. In page 43, before section 42, but in Part 3, the following new section inserted:

"Designation of apartment complex.

47.—(1) Where, following the holding of a tenant plebiscite, the conditions specified in *section 43#(2)* continue to be met, and subject to the conditions specified in *subsection (2)* being satisfied, the housing authority may designate the apartment complex (in this Part referred to as a "designated apartment complex") in accordance with the *section 45#* proposal.

(2) The conditions referred to in *subsection (1)* are that—

(*a*) the number of votes in favour of the designation of the apartment complex equals or exceeds 65 per cent of the number of tenants entitled to vote at the plebiscite, and

(*b*) the number of voters who indicate at the plebiscite that, if designation proceeds and they purchase their apartments, they are willing to serve as directors of the management company equals or exceeds the greater of—

(i) the minimum number of tenants specified in *column (2)* of the Table to this subsection opposite the entry in *column (1)* of the class of apartment complex corresponding to the class of the apartment complex concerned, or

(ii) the number (rounded up to the nearest higher whole number) of tenants represented by the minimum proportion of all tenants specified in *column (3)* of the said Table opposite the said entry in *column (1)*.

TABLE

Class of apartment complex determined by the number of apartments comprised therein of which the housing authority is the apartment owner (1)	**Minimum number of tenants in apartment complex willing to serve as directors of management company (2)**	**Minimum proportion of all tenants in apartment complex willing to serve as directors of management company (3)**
Apartment complex comprising not more than 9 apartments	3	60%
Apartment complex comprising 10 to 19 apartments	6	40%
Apartment complex comprising 20 to 29 apartments	8	None

Apartment complex comprising 30 to 59 apartments	9	None
Apartment complex comprising 60 apartments or more	10	None

(3) Where an apartment complex is designated under *subsection (1)*, the designation lapses if no apartment is sold by the housing authority under this Part before the expiry of the initial selling period.

(4) The designation of an apartment complex is a reserved function.".

[#*These are references to the new sections inserted by amendments No. 88 and 90.*]

93. In page 43, before section 42, but in Part 3, the following new section inserted:

"Initial selling period.

48.—(1) A housing authority shall, within 6 months of designating an apartment complex under *section 47#*, by written notice given to each tenant of an apartment in the apartment complex, invite him or her to submit to the authority an application to purchase the apartment.

(2) Apartments in a designated apartment complex shall be available for sale under this Part to the tenants thereof during the period (in this Part referred to as the "initial selling period") beginning on the date specified in *subsection (3)* and ending on the later of the following—

(*a*) 3 years from the date on which the initial selling period begins, or

(*b*) 5 years from the date on which the initial selling period begins in a case where the housing authority, before the expiry of the period specified in *paragraph (a)*, extends that period for a further period of 2 years where it is satisfied that the sales of at least the minimum number of apartments available for sale in the designated apartment complex, calculated in accordance with *section 56#(4)*, will proceed during any such extended period.

(3) The specified date for the purposes of *subsection (2)* is the date of the first occasion following designation of the apartment complex under *section 47#* on which the housing authority, pursuant to an application referred to in *subsection (1)*, provides to a tenant the necessary information, documentation, particulars of title and terms and conditions of sale relating to the apartment concerned together with information and documentation relating to the management company.

(4) The extension of the initial selling period for the purposes of *subsection (2)(b)* is a reserved function.

(5) The manager shall arrange for the establishment of a management company under *section 49#* where the manager is satisfied that—

(*a*) the sales are ready to proceed, during the initial selling period, of at least the minimum number of apartments available for sale in the designated apartment complex calculated in accordance with s*ubsection (6)*, and

(*b*) in relation to those sales that are ready to proceed as referred to in *paragraph (a)*, the number of tenants of the apartments concerned that have indicated their willingness to serve as directors of the management company equals or exceeds half of the minimum number of apartments calculated in accordance with *subsection (6)*.

(6) The minimum number of apartments for the purposes of *subsection (5)(a)* is calculated as the greater of—

(*a*) the minimum number of apartments specified in *column (2)* of the Table to this subsection opposite the entry in *column (1)* of the class of apartment complex corresponding to the class of the designated apartment complex concerned, and

(*b*) the minimum number (rounded up to the nearest higher whole number) of tenants represented by the minimum proportion of all apartments in the designated apartment complex concerned specified in *column (3)* of the said Table opposite the said entry in *column (1)*.

TABLE

Class of apartment complex determined by the number of apartments comprised therein of which the housing authority is the apartment owner **(1)**	**Minimum number of apartment sales** **(2)**	**Minimum proportion of all apartments in apartment complex** **(3)**
Apartment complex comprising not more than 19 apartments	2	35%
Apartment complex comprising 20 or more apartments	7	30%

(7) For the purposes of *subsection (5)* and *section 56#(3)*, a sale is ready to proceed where, in accordance with the terms and conditions of sale, the tenant has —

(*a*) signed the apartment assignment order,

(*b*) paid such deposit as is payable to the housing authority in respect of the purchase concerned, and

(*c*) provided to the housing authority written notice of loan approval or otherwise established, to the satisfaction of the housing authority, his or her capacity to pay the balance of the purchase money on the completion of the sale to him or her.".

[#*These are references to the new sections inserted by amendments No. 92, 94 and 101.*]

94. In page 43, before section 42, but in Part 3, the following new section inserted:

"Establishment and objects of management company.

49.—(1) In this section references to an apartment include a community apartment.

(2) A housing authority shall, in relation to a designated apartment complex, establish a company (in this Part referred to as a "management company") to achieve the principal objects specified in *subsections (5)* and *(6)* which shall be a company formed and registered under the Companies Acts and limited by

(*a*) shares, where there are not more than 6 apartments in the designated apartment complex concerned, or

(*b*) guarantee, where there are more than 6 apartments in the designated apartment complex.

(3) The name of every management company shall be comprised of the name of the designated apartment complex concerned and the words "owners' management company" which words may be abbreviated to "OMC".

(4) The memorandum and articles of association of a management company shall be in such form consistent with this Act as may be determined by the housing authority.

(5) The principal objects of a management company shall be stated in its memorandum of association to be as follows:

(*a*) to take a transfer of ownership of a designated apartment complex in accordance with an apartment complex transfer order ;

(*b*) in the case of apartments in the designated apartment complex which have not been sold by the housing authority under section 90 of the Principal Act, whether before or after the coming into operation of this Part, to grant a lease or sublease of the apartments to the housing authority in accordance with an apartment transfer order;

(*c*) to manage, control and maintain the common areas, structures, works and services in accordance with *section 55#(3)*,

(*d*) to carry out its functions in accordance with this Part.

(6) *Subsection (5)* does not prevent or restrict the inclusion of objects and powers that are—

(*a*) reasonably necessary, proper for or incidental or ancillary to attaining the principal objects referred to in *subsection (5)*, and

(*b*) not inconsistent with this Part or any other enactment.

(7) The articles of association shall include provision for—

(*a*) the levying and collection annually of an apartment complex service charge and a charge in respect of the sinking fund contribution, and

(*b*) the covenants and agreements relating to the designated apartment complex and the apartments comprised therein.".

[#*This is a reference to the new section inserted by amendment No. 100.*]

95. In page 43, before section 42, but in Part 3, the following new section inserted:

"Annual meetings and reports of management company.

50.—(1) A management company shall—

(*a*) prepare and furnish to each member an annual report which complies with *subsection (2)*, and

(*b*) hold a meeting at least once in each year for purposes which include the consideration of the annual report referred to in *paragraph (a)*.

(2) An annual report of a management company shall include:

(*a*) a statement of income and expenditure relating to the period covered by the report;

(*b*) a statement of the assets and liabilities of the company;

(*c*) a statement of the funds standing to the credit of the sinking fund;

(*d*) a statement of the amount of the apartment complex service charge and the basis of such charge in respect of the period covered by the report;

(*e*) a statement of the projected or agreed apartment complex service charge relating to the current period;

(*f*) a statement of any planned expenditure on refurbishment, improvement or maintenance of a non-recurring nature which it is intended to carry out in the current period;

(*g*) a statement of the insured value of the designated apartment complex, the amount of the premium charged, the name of the insurance company with which the policy of insurance is held and a summary of the principal risks covered, and

(*h*) a statement fully disclosing any contracts entered into or in force between the management company and a director or shadow director of the company or a person who is a connected person as respects that director or shadow director.

(3) At least 21 days written notice of the meeting referred to in *subsection (1)(b)* shall be given to each member.

(4) A copy of the annual report referred to in *subsection (1)(a)* shall be given to each member at least 10 days before the meeting referred to in *subsection (1)(b)*.

(5) The meeting referred to in *subsection (1)(b)* shall take place within reasonable proximity to the designated apartment complex and at a reasonable time (unless otherwise agreed by 75 per cent majority vote of the members).

(6) The obligations of a management company under this section are in addition to any other obligation or duty of such company whether arising under an Act, statutory instrument, by rule of law or otherwise.

(7) For the purposes of *subsection (2)(h)*, "shadow director" and "connected person" have the same meanings as they have in the Companies Acts.".

96. In page 43, before section 42, but in Part 3, the following new section inserted:

"Transfer of ownership of designated apartment complex to management company.

51.—(1) As soon as practicable after the establishment of the management company under *section 50#* the housing authority shall, for nominal consideration transfer its ownership of the apartment complex (including its interest in any apartment sold under section 90 of the Principal Act whether before or after the coming into operation of this Part) to the management company by means of an order (in this Part referred to as an "apartment complex transfer order"), in the prescribed form, made by the housing authority, which order shall be expressed and shall operate to vest, on the date specified in the order, the interest specified therein, subject as therein provided and to the terms and conditions specified in *subsection (2)*.

(2) The terms and conditions referred to in *subsection (1)* include the following—

(*a*) that the management company shall, on the date specified in the apartment complex transfer order or as soon as practicable thereafter, lease or sublease, as the case may be, each apartment (including any community apartment) in the designated apartment complex to the housing authority in accordance with this Part other than any apartments sold by the housing authority under section 90 of the Principal Act whether before or after the coming into operation of this Part,

(*b*) that the transfer of ownership under *subsection (1)* is subject to—

(i) the tenancy agreements between the housing authority and the tenants of the apartments concerned entered into before the date of the apartment complex transfer order, and

(ii) any lease entered into between the housing authority before the date of the apartment complex transfer order for the purpose of the sale of an apartment in the designated apartment complex under section 90 of the Principal Act whether before or after the coming into operation of this Part,

(*c*) that the consent of the management company shall not be required in respect of the sale or letting of apartments by the housing authority under the *Housing Acts 1966 to 2009*,

(*d*) that the management company shall, where the designation of an apartment complex lapses under *section 47#(3)*, comply with the requirements of *section 53#*,

(*e*) such other terms and conditions as may be prescribed for the purposes of an apartment complex transfer order.

(3) Save as provided for by any other enactment or regulations made thereunder, the transfer of ownership of a designated apartment complex to a management company under this section shall not imply any warranty on the part of the housing authority in relation to the state of repair or condition of the apartment complex or the fitness for human habitation of the apartments concerned.".

[#*These are references to the new sections inserted by amendments No. 95, 92 and 98.*]

97. In page 43, before section 42, but in Part 3, the following new section inserted:

"Lease of apartment to housing authority.

52.—(1) In this section, in the case of a designated apartment complex in respect of which a leasehold interest is assigned to the management company for the purposes of *section 51#*, a reference to a lease includes a sublease.

(2) Subject to and in accordance with this section, as soon as practicable after the date specified in the apartment complex transfer orderfor the purposes of *section 51 (1)#*, the management company shall, for nominal consideration, grant a lease to the housing authority in respect of each apartment (including any community apartment) in the designated apartment complex, by means of an order (in this Part referred to as an "apartment transfer order") in the prescribed form, made by the management company, which shall be expressed and shall operate to vest, on the date specified in the order, the interest specified therein, subject as therein provided and to the terms and conditions specified in *subsection (3)*.

(3) The terms and conditions referred to in *subsection (2)* include the following—

(*a*) that the housing authority may, without the consent of the management company—

(i) sell the apartment, under this Part, to a tenant thereof, or

(ii) without prejudice to any tenancy agreement entered into between the housing authority and a tenant of the apartment concerned before the date specified in the apartment transfer order for the purposes of *subsection (2)*, let the apartment in accordance with and in the performance of its functions under the *Housing Acts 1966 to 2009*,

(*b*) that the housing authority shall not, without the prior written consent of the management company make material improvements to the apartment,

(*c*) the condition specified in *section 61#(3)* relating to payment of the management company annual charges in respect of the apartment and the consequences of failing to pay,

(*d*) that the management company shall, where the designation of an apartment complex lapses under *section 47#(3)*, comply with the requirements of *section 53#*,

(*e*) terms and conditions relating to membership of the management company, and

(*f*) such other terms and conditions relating to the lease of an apartment to the housing authority under this section as may be prescribed for the purposes of an apartment transfer order.

(4) This section does not apply to any apartment in a designated apartment complex sold by a housing authority under section 90 of the Principal Act whether before or after the coming into operation of this Part.

(5) In this section "material improvements" means improvements made to an apartment whether for the purposes of extending, enlarging or converting the apartment but does not include internal decoration and repair.".

[#*These are references to the new sections inserted by amendments No. 96, 106, 92 and 98.*]

98. In page 43, before section 42, but in Part 3, the following new section inserted:

"Consequences of designation lapsing under *section 47#*.

53.—(1) Where the designation of an apartment complex lapses under *section 47#(3)*, the housing authority shall notify the management company in writing and the management company shall, as soon as practicable after receipt of the notification—

(*a*) terminate the leases granted to the housing authority in respect of each apartment in accordance with the terms and conditions of the apartment complex transfer order and the apartment transfer order;

(*b*) transfer ownership of the apartment complex to the housing authority, subject to any lease referred to in *section 51#(2)(b)(ii)*, and

(*c*) arrange for the winding up of the management company in accordance with the Companies Acts.

(2) Where the designation of an apartment complex lapses under *section 47#(3)* and subject to compliance by the management company with the requirements of *subsection (1)*, the housing authority shall continue to perform its functions under the *Housing Acts 1966 to 2009* relating to the management and control of the apartment complex.".

[#*These are references to the new sections inserted by amendments No. 92 and 96.*]

99. In page 43, before section 42, but in Part 3, the following new section inserted:

"Costs incurred by management company.

54.—A housing authority shall reimburse a management company established by it in respect of such reasonable and vouched expenses as may be incurred by the management company in the performance of its functions under *sections 51#, 52#* and 53#.".

[#*These are references to the new sections inserted by amendments No. 96, 97 and 98.*]

100. In page 43, before section 42, but in Part 3, the following new section inserted:

"Management, control and maintenance of designated apartment complex.

55.—(1) Notwithstanding the transfer of ownership of a designated apartment complex to a management company under *section 51#*, the housing authority shall manage and control the designated apartment complex in the performance of its functions under the *Housing Acts 1966 to 2009*, for the period beginning on the date specified in the apartment complex transfer order for the purposes of *section 51#(1)* and ending on the date of the first sale of an apartment in the apartment complex to the tenant thereof.

(2) The management company shall pay to the housing authority as soon as practicable after receipt thereof any charges paid to the management company in respect of the period specified in *subsection (1)* by any person to whom an apartment in the designated apartment complex was sold under section 90 of the Principal Act whether before or after the coming into operation of this Part.

(3) On the date of the first sale under this Part of an apartment in a designated apartment complex to the tenant thereof the management company shall, in relation to the common areas, structures, works and services in the designated apartment complex, in accordance with its memorandum and articles of association ensure the effective management and maintenance of the common areas, structures, works and services, and without prejudice to the generality of the foregoing, ensure that the designated apartment complex functions effectively and otherwise comply with the obligations imposed on the management company under and in accordance with this Part and the apartment complex transfer order.".

[# *These are references to the new section inserted by amendment No. 96.*]

101. In page 43, before section 42, but in Part 3, the following new section inserted:

"Sale by housing authority of apartments to tenants.

56.—(1) In this section, in the case of an apartment in respect of which a sublease is granted to the housing authority for the purposes of *section 52#*, a reference to a lease includes a sublease.

(2) Subject to and in accordance with this Part and the Housing Acts 1966 to 2004 and subject to such regulations as may be made under *section 69#*, a housing authority may, subject to *subsections (3)* and *(4)*, in consideration of the receipt by the housing authority of the purchase money, sell an apartment, of which it is the apartment owner, in a designated apartment complex, in the state of repair and condition existing on the date of sale, to the tenant of the apartment (in this Part referred to as an "apartment purchaser") by assignment of the lease granted to the housing authority under *section 52#* by means of an order (in this Part referred to as an "apartment assignment order"), in the prescribed form, made by the housing authority, which shall be expressed and shall operate to vest, on the date specified in the order, the interest specified in the order, in accordance with and subject to the terms and conditions specified in *subsection (5)* and the terms and conditions of a charging order.

(3) The manager shall not sign the apartment assignment order for the sale to a tenant under this Part of the first apartment in a designated apartment complex where—

(*a*) the initial selling period has expired, or

(*b*) he or she is not satisfied that the sales are ready to proceed (within the meaning of *section 48#(7)*) within 4 weeks of the date of signing the assignment order of at least the minimum number of apartments available for sale in the designated apartment complex, calculated in accordance with *subsection (4)*, or

(*c*) the number of tenants of the apartments referred to in *paragraph (b)* who have indicated a willingness to serve as directors of the management company is less than half of the minimum number of apartments calculated in accordance with *subsection (4)*.

(4) The minimum number of apartments for the purposes of *subsection (3)(b)* includes the first apartment referred to in *subsection (3)* and is calculated as the greater of—

(*a*) the minimum number of apartments specified in *column (2)* of the following Table opposite the entry in *column (1)* of the class of apartment complex corresponding to the class of the designated apartment complex concerned, or

(*b*) the minimum number (rounded up to the nearest higher whole number) of tenants represented by the minimum proportion of all apartments specified in *column (3)* of the following Table opposite the said entry in *column (1)*.

TABLE

Class of apartment complex determined by the number of apartments comprised therein of which the housing authority is the apartment owner **(1)**	**Minimum number of apartment sales** **(2)**	**Minimum proportion of all apartments in apartment complex** **(3)**
Apartment complex comprising not more than 19 apartments	2	30%
Apartment complex comprising 20 or more apartments	6	25%

(5) The terms and conditions referred to in *subsection (2)* shall include the following—

(*a*) that the apartment shall, during the charged period, unless the housing authority gives its prior written consent, be occupied as the normal place of residence of the apartment purchaser or of a member of the apartment purchaser's household;

(*b*) that the apartment or any part thereof shall not, during the charged period without the prior written consent of the housing authority, be sold, assigned, let or sublet or otherwise disposed of or mortgaged, charged or alienated, otherwise than by devise or operation of law;

(*c*) terms and conditions relating to the resale of the apartment under *section 68#* during the charged period;

(*d*) such other terms and conditions relating to the sale of an apartment as may be prescribed for the purposes of an apartment assignment order.

(6) A tenant who applies to purchase his or her apartment under this Part shall, on or before signing the apartment assignment order, pay to the housing authority a deposit of an amount determined in accordance with such method as may be prescribed under *section 69#* which deposit, subject to *subsection (7)*, shall not be refundable if the tenant withdraws from the sale for any reason at any time before the expiration of 6 months from the date on which he or she signs the order.

(7) Where a housing authority does not proceed with the sale of an apartment for any reason, the housing authority shall—

(*a*) notify the tenant in writing,

(*b*) refund any deposit paid by the tenant and reimburse the tenant in respect of such reasonable legal expenses as may be incurred by him or her in respect of the proposed purchase of the apartment by him or her under this Part, and

(*c*) pay to the tenant interest on the amount of the deposit refunded under *paragraph (a)* at the rate prescribed under *section 33* for the period beginning on the date the tenant signed the apartment assignment order and ending on the date on which the housing authority notifies the tenant that it is not proceeding with the purchase.

(8) Save as provided for by any other enactment or regulations made thereunder, the sale of an apartment under this Part to a tenant shall not imply any warranty on the part of the housing authority in relation to the state of repair or condition of the apartment or its fitness for human habitation.

(9) A housing authority shall not proceed with the sale of an apartment under this Part to the tenant thereof—

(*a*) where—

(i) at any time during the 3 years immediately before applying to the authority to purchase an apartment under this Part, the tenant was in arrears of rent for an accumulated period of 12 weeks or more in respect of the apartment or any other dwelling or site let to him or her by any housing authority under the *Housing Acts 1966 to 2009* or provided under Part V of the Planning and Development Act 2000, and

(ii) the housing authority has not entered into an arrangement under *section 34* with the tenant for the payment of the moneys due and owing to the housing authority in respect of those arrears,

(*b*) where, on the basis of any structural survey of the apartment complex or of an individual apartment that may be carried out after the date of the designation of the apartment complex under *section 47#*, the authority considers that it is not in the interest of good estate management to proceed with the sale,

(*c*) where the authority is not satisfied, having regard to the provisions of *section 57#(5)*, that the number of existing and prospective apartment purchasers willing to serve as directors of the management company is sufficient to enable the company to function effectively, or

(*d*) where the designation of the apartment complex for tenant purchase has lapsed under *section 47(3)#*.

(10) 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 apartment to a tenant in accordance with this Part.".

[#*These are references to the new sections inserted by amendments No. 97, 114, 93, 113, 92 and 102.*]

102. In page 43, before section 42, but in Part 3, the following new section inserted:

"Management company provisions.

57.—(1) In this section—

(*a*) references to an apartment include a community apartment, and

(*b*) references to an apartment owner include—

(i) a person to whom an apartment in a designated apartment complex was sold under section 90 of the Principal Act whether before or after the coming into operation of this Part, and

(ii) a person in whom there subsequently becomes vested the interest of the person referred to in *subparagraph (i)* or his or her successor in title and the personal representative of that person or successor in title.

(2) Each apartment owner shall be a member of the management company.

(3) (*a*) The voting rights of the members shall be structured in such a manner that in the determination of any matter by the members one vote shall attach to each apartment owner in respect of each apartment in the designated apartment complex to which the management company relates, and that no other person has such a vote.

(*b*) Each vote referred to in *paragraph (a)* shall be of equal value.

(4) Where 2 or more persons are joint apartment owners they shall constitute one member in respect of the exercise of the voting and other powers vested in such member.

(5) According as apartments in a designated apartment complex are sold to tenants under this Part, a housing authority shall, subject to *subsection (6)*, nominate for election as directors of the management company such number of persons which, when expressed as a proportion of the total number of directors of the company that will be serving after the election is concluded, does not exceed the proportion of the total number of apartments in the designated apartment complex of which the housing authority is the apartment owner.

(6) A housing authority may decide not to nominate any person for election as a director of the management company where the number of apartments of which the housing authority is the apartment owner is equal to or less than 20 per cent of the total number of apartments in the designated apartment complex.".

103. In page 43, before section 42, but in Part 3, the following new section inserted:

"Automatic transfer of membership of management company on sale of apartment.

58.—(1) Where ownership of an apartment in a designated apartment complex is transferred, whether by conveyance, transfer, assignment, by operation of law or otherwise, membership of the management company which arises by virtue of ownership of the apartment shall, notwithstanding any provision to the contrary in the Companies Acts or other enactment, on such transfer stand transferred to the person becoming entitled to the interest in the apartment concerned without the need to execute a transfer or have it approved by the directors of the company, and such person shall—

(*a*) be entitled to exercise the powers, rights and entitlement of a member in the company concerned, and

(*b*) subject to *subsection (3)*, be obliged to perform all the obligations (including the payment of the apartment complex service charge, the charge in respect of the sinking fund contribution and any other charges) pertaining to the membership of the company concerned.

(2) Notwithstanding *subsection (1)* a management company shall take all steps necessary to ensure—

(*a*) that the share certificate or membership certificate, as appropriate, is issued to the member concerned as soon as practicable following notification of the change of ownership of an apartment,

(*b*) that the register of members of the company is altered accordingly, and

(*c*) that there is compliance with all other relevant requirements under the Companies Acts.

(3) This section is without prejudice to the rights, entitlements and obligations of any person to whom an apartment in a designated apartment complex was sold under section 90 of the Principal Act, whether before or after the coming into operation of this Part including a person in whom there subsequently becomes vested the interest of such person or his or her successor in title and the personal representative of that person or successor in title.".

104. In page 43, before section 42, but in Part 3, the following new section inserted:

"Apartment complex service charge.

59.—(1) Before the end of the period specified in *section 55#(1)*, and thereafter before the end of the first month of each financial year, the management company shall prepare an estimate of the amount to be raised, in respect of the financial year concerned, by way of an annual charge or charges (in this Part referred to as the "apartment complex service charge") payable by apartment owners, being the amount required to discharge ongoing expenditure reasonably incurred on the insurance, maintenance (including cleaning and waste management services) and repair of the common areas, structures, works and services of the designated apartment complex concerned and on the provision of common or shared services to the apartment owners and occupiers of the designated apartment complex.

(2) The management company shall prepare the estimate referred to in *subsection (1)* by reference to the actual or projected expenditure for the financial year in respect of which the service charge is to be levied.

(3) The estimate referred to in *subsection (1)* shall include the following categories:

(*a*) insurance;

(*b*) general maintenance;

(*c*) repairs;

(*d*) waste management;

(*e*) cleaning;

(*f*) gardening and landscaping;

(*g*) security services;

(*h*) legal services and accounts preparation, and

(*i*) other expenditure anticipated to arise in connection with the maintenance, repair and management of the common areas anticipated to arise.

(4) The apartment complex service charge for each financial year shall not be levied by the management company unless it has been considered by a general meeting of the members called for purposes which include the consideration of the estimate referred to in *subsection (1)*.

(5) The general meeting referred to in *subsection (4)* shall take place within reasonable proximity to the designated apartment complex and at a reasonable time (unless otherwise agreed by a 75 per cent majority vote of the members).

(6) (*a*) The proposal in relation to the setting of the apartment complex service charge may be amended at the meeting referred to in *subsection (4)* with the approval of a 60 per cent majority vote of the members present and voting at the meeting.

(*b*) Where the apartment complex service charge proposed to the general meeting is disapproved of by not less than a 75 per cent majority vote of the members present and voting at the meeting, the proposed apartment complex service charge shall not take effect but the apartment complex service charge applying to the previous financial year shall continue to apply pending the adoption of an apartment complex service charge in respect of the financial year concerned.

(7) The amount of the apartment complex service charge shall as soon as practicable after its adoption under this section be levied by the management company as a charge on each apartment in the designated apartment complex, the proportion of the apartment complex service charge attributable to any apartment being the same as the proportion which the floor area of that apartment, determined in the prescribed manner, bears to the aggregate floor area of all apartments in the designated apartment complex.

(8) (*a*) In the case of a designated apartment complex where the housing authority has sold one or more than one apartment under section 90 of the Principal Act, whether before or after the coming into operation of this Part, the management company shall—

(i) determine the net amount of the apartment complex service charge by deducting from the amount of the apartment complex service charge for the financial year concerned the amount of its estimated service charge receipts for the current financial year from the apartment owners of the apartments so sold under the terms and conditions of the transfer orders in respect of the sales of those apartments,

(ii) excluding the apartments so sold from the calculation and subject to the prior approval of the Minister, apportion the net amount of the apartment complex service charge between each of the other apartments in the designated apartment complex by the method of apportionment provided for in the said transfer orders, and

(iii) levy the amount so apportioned in respect of each of those other apartments in the designated apartment complex as a charge on such apartment.

(*b*) The Minister shall not approve the method of apportionment referred to in *paragraph (a)(ii)* where he or she is not satisfied that such method is equitable as between the apartments referred to in *paragraph (a)(iii)*.

(*c*) Where the Minister does not approve the method of apportionment referred to in *paragraph (a)(ii),* the management company shall, excluding the apartments so sold under section 90 of the Principal Act from the calculation, apportion the net amount of the apartment complex service charge between each of the other apartments in the designated apartment complex by the method of apportionment specified in *subsection (7)*.

(9) (*a*) To the extent that any part of the apartment complex service charge is not required for the year concerned, any excess shall be taken account of in setting the apartment complex service charge for the following year.

(*b*) To the extent that the apartment complex service charge is inadequate for the expenditure in the year concerned, the extent of such inadequacy may be added to the apartment complex service charge otherwise payable in respect of the following year.

(10) The management company shall maintain sufficient and proper records of expenditure incurred by it to enable appropriate verification and audits to be undertaken.

(11) The apartment complex service charge levied pursuant to this section shall be applied for the purposes specified in *subsection (1)* but any excess may, notwithstanding *subsections (2)* or *(9)*, be applied on expenditure which may be incurred by the sinking fund.

(12) The Minister may make regulations prescribing the class or classes of items of expenditure which may be the subject of the apartment complex service charge.".

[#*This is a reference to the new section inserted by amendment No. 100.*]

105. In page 43, before section 42, the following new section inserted:

"Sinking fund.

60.—(1) Before the end of the period specified in *section 55#(1)*, the management company shall establish a building investment fund (in this Part referred to as a "sinking fund") for the purpose of discharging expenditure reasonably incurred, in respect of the designated apartment complex concerned on—

(*a*) refurbishment,

(*b*) improvement,

(*c*) maintenance of a non-recurring nature, or

(*d*) advice from a suitably qualified person relating to *paragraphs (a)* to *(c)*.

(2) For the purposes of *subsection (1)*, expenditure shall not be considered to be expenditure on maintenance of a non-recurring nature—

(*a*) where the expenditure relates to a matter in respect of which expenditure is generally incurred in each year,

(*b*) unless it is certified by the directors of the management company as being expenditure on maintenance of a non-recurring nature, and

(*c*) unless the expenditure is approved by a meeting of the members as being expenditure on maintenance of a non-recurring nature.

(3) (*a*) Before the end of the period specified in *section 55#(1)*, and thereafter before the end of the first month of each financial year, the management company shall, subject to *paragraph (b)* prepare an estimate of the sum of moneys (referred to in this Part as the "sinking fund contribution") that it considers appropriate and prudent for addition to the sinking fund in the financial year concerned and, applying the method of apportionment specified in *subsection (4)(a)* or *(b)*, as appropriate, calculate the amount equal to the proportion of the sinking fund contribution that would be attributable to each apartment in the designated apartment complex.

(*b*) The management company shall not prepare an estimate of the sinking fund contribution for the financial year concerned which, when apportioned between each apartment in the designated apartment complex in accordance with *paragraph (a)*, results in the smallest amount attributable to any apartment being less than €200 or such other amount as may be prescribed for the purposes of this subsection.

(*c*) If, under the calculation set out in *paragraph (a)*, the smallest amount attributable to any apartment in the designated apartment complex is equal to €200 or such other amount as may be prescribed for the purposes of this subsection, the management company may adopt its estimate under *paragraph (a)* as the sinking fund contribution for the financial year concerned.

(*d*) If under the calculation specified in *paragraph (a)*, the smallest amount attributable to any apartment in the apartment complex is more than €200 or such other amount as may be prescribed for the purposes of this subsection, the sinking fund contribution for the financial year shall be adopted by a general meeting of members called for those purposes, provided that such contribution, when apportioned between each apartment in the designated apartment complex on the same basis as the apartment complex service charge, does not result in the smallest amount attributable to any apartment being less than €200 or such other amount as may be prescribed for the purposes of this subsection.

(4) The amount of the sinking fund contribution shall, as soon as practicable after its determination, be levied by the management company as a charge on each apartment in the designated apartment complex, the amount being apportioned between each apartment in the designated apartment complex on the same basis as the apartment complex service charge is apportioned—

(*a*) in accordance with *section 59(7)#*, or

(*b*) in the case of a designated apartment complex where the housing authority has sold one or more than one apartment under section 90 of the Principal Act, in accordance with *section 59(8)#*.

(5) The contributions made to the sinking fund shall be held in a separate account and in a manner which identifies such funds as belonging to the sinking fund and those funds shall not be used or expended on matters other than expenditure of a type referred to in *subsection (1)*.

(6) The Minister may make regulations prescribing all or any one or more of the following:

(*a*) a class or classes of expenditure which may be incurred by a sinking fund;

(*b*) thresholds of expenditure (by reference to amounts of expenditure or by reference to the proportion of the sinking fund) which necessitate approval of the members;

(*c*) any other amount for the purposes of *subsection (3)* having regard to the average level of service charges in designated apartment complexes.".

[#*These are references to the new sections inserted by amendments No. 100 and 104.*]

106. In page 43, before section 42, but in Part 3, the following new section inserted:

"Management company annual charges.

61.—(1) A management company may issue a single request for payment of the aggregate of the charges arising under *sections 59#* and *60#*, and every request for payment, whether in reliance on this section or on *section 59#* or *60#* shall set out the basis of the calculation of the charge, a breakdown of how it is calculated and the amount payable in respect of the apartment concerned.

(2) Where payment of charges arising under *sections 59#* and *60#* are requested or collected together such charges may collectively be referred to as "management company annual charges".

(3) It shall be a condition of the apartment transfer order and the apartment assignment order that—

(*a*) the apartment owner shall pay the management company annual charges of such amount or amounts and at such times and in such manner as the management company may specify subject to and in accordance with the terms and conditions of the apartment transfer order or the apartment assignment order, as the case may be, and

(*b*) where the apartment owner fails to comply with the obligation in *paragraph (a)*, the management company shall have the right to re-enter and take possession of the apartment, whereupon the term of the apartment transfer order or the apartment assignment order, as the case may be, shall end, without prejudice to the rights and remedies of the company in respect of any such charge in arrears or of any other breach of the apartment transfer order or apartment assignment order.

(4) Where the management company annual charges or part thereof remain unpaid by the apartment owner on the expiration of the period for payment specified in the apartment transfer order or apartment assignment order, as the case may be, the amount concerned shall bear interest, at the rate provided for therein and calculated in accordance therewith.

(5) Where, during the charged period, the management company annual charges or part thereof remain unpaid by the apartment purchaser concerned for a period of more than 6 months after the expiry of the period for payment of the charge specified in the apartment assignment order, the management company shall notify the housing authority in writing.

(6) Where a housing authority sells an apartment to the tenant thereof under this Part, it shall not be liable, in respect of any period after the date on which the housing authority signs the apartment assignment order, for the management company annual charges for the proportion of the financial year remaining after that date or for any financial year thereafter.".

[#*These are references to the new sections inserted by amendments No. 104 and 105.*]

107. In page 43, before section 42, but in Part 3, the following new section inserted:

"Apartment complex support fund.

62.—(1) Subject to *subsection (3)*, on the first sale of an apartment in a designated apartment complex to the tenant thereof under this Part, the housing authority shall establish, maintain and account for a fund (referred to in this Part as an "apartment complex support fund") for the purposes set out in *subsection (4)*.

(2) (*a*) The housing authority shall, on the establishment of the apartment complex support fund, pay into the fund an amount fixed in accordance with *paragraph (b)*.

(*b*) The amount referred to in *paragraph (a)* shall be calculated as the sum of the prescribed proportion of the purchase price on the date of the first sale referred to in *subsection (1)* of each apartment in the designated apartment complex, including community apartments and any apartments sold to tenants under section 90 of the Principal Act whether before or after the coming into operation of this Part, which proportion shall not exceed the greater of—

(i) 5 per cent of such purchase price, or

(ii) such amount as may be prescribed for the purposes of this section having regard to the number and size of the apartments comprised in the designated apartment complex concerned.

(3) The moneys referred to in *subsection (2)* in respect of one or more than one designated apartment complex may be held in, managed and accounted for by a housing authority in a single apartment complex support fund, provided that the funding for each such apartment complex is capable of being separately identified.

(4) The housing authority, in accordance with this section, on a request being made in that behalf by the management company and subject to there being sufficient moneys in the apartment complex support fund, may decide to transfer moneys from the apartment complex support fund to the company's sinking fund to meet expenditure by, or on behalf of, the management company on any of the works referred to in *section 60#(1)(a)* to *(c)*.

(5) (*a*) Where a request is made under *subsection (4)*, the management company shall, as the housing authority may reasonably require for the purpose of deciding whether to transfer moneys from the apartment complex support fund to the sinking fund—

(i) provide details (including drawings and estimated costs) of the proposed works,

(ii) provide financial and other information (including the company's records relating to management, maintenance and repair of the common areas, structures, works and services), and

(iii) carry out, or facilitate the housing authority in carrying out, inspections, surveys and tests.

(*b*) The reasonable costs incurred by the management company in meeting the requirements of a housing authority under this subsection shall be paid by the housing authority.

(6) A housing authority may refuse to transfer moneys under *subsection (4)* where it is of the opinion that any of the following applies:

(*a*) the works proposed are not in the interest of good estate management;

(*b*) the management company is not in a position to meet the cost of the works, from its own resources, including the sinking fund, moneys which it has requested under *subsection (4)* from the apartment complex support fund and borrowings;

(*c*) the works proposed are necessary because of the management company's failure to discharge its obligations under *section 55#(3)*, whether this failure is attributable to the company's failure to levy or collect an adequate apartment complex service charge in one or more than one financial year, or otherwise;

(*d*) the moneys may be used by the management company for purposes other than the carrying out of the works proposed, including eliminating or reducing any excess of expenditure over income (but not including the sinking fund) on the management company's accounts.

(7) Where a housing authority decides to transfer moneys under *subsection (4)* it may do all or any of the following—

(*a*) transfer from the apartment complex support fund the amount requested by the management company under *subsection (4)* or an amount less than that so requested;

(*b*) attach such conditions as it considers appropriate to its decision including conditions specifying—

(i) the works to be carried out,

(ii) the works not to be carried out,

(iii) the standard of the works to be carried out, and

(iv) the timing and content of reports to be given to the housing authority in relation to the works carried out;

(*c*) transfer same to the sinking fund of the management company in such instalments and at such times as the housing authority considers reasonable having regard to the progress of the works concerned.

(8) The management company in carrying out any of the works referred to in *section 60#(1)(a)* to *(c)* shall comply with such conditions if any as may be attached under *subsection (7)(b)* to the decision to transfer moneys under *subsection (4)*.

(9) (*a*) The housing authority may, for the purpose of establishing that the moneys transferred under *subsection (4)* were used for the purpose for which they were intended and in compliance with the conditions attached under *subsection (7)(b)* to its decision to transfer moneys, carry out such further inspections, surveys and tests of the works concerned as it considers necessary.

(*b*) The management company shall facilitate the housing authority in the carrying out of the inspections, surveys and tests referred to in *paragraph (a)* and, if requested by the authority, shall itself carry out such inspections, surveys and tests of the works concerned, as the housing authority considers necessary, the reasonable cost of which shall be paid by the housing authority.

(10) (*a*) The management company shall be liable to repay to the housing authority—

(i) in case of its failure to use all or any of the moneys transferred under *subsection (4)* for the purpose for which they were intended, the entire of such moneys or such part thereof, as the case may be, or

(ii) in case of a breach of one or more than one condition attached by the authority under *subsection (7)(b)* to its decision to transfer moneys under *subsection (4)*, that proportion of the amount of the transferred moneys corresponding to the cost of complying with the condition or conditions concerned expressed as a proportion of the total cost of carrying out the works in respect of which the authority agreed to so transfer moneys.

(*b*) Any moneys due and owing to the housing authority under *paragraph (a)* shall, subject to *section 63#*, be repaid by the management company not later than 2 months after the date on which the authority demands repayment from the management company by notice in writing specifying the matters giving rise to the demand for repayment and the amount concerned.

(*c*) Any moneys repaid by a management company to a housing authority under this subsection shall be paid into the apartment complex support fund.

(11) The housing authority may recoup from the apartment complex support fund such reasonable expenses as it may incur in the exercise of its functions under this section.

(12) The apartment complex support fund shall consist of a current account (in this section referred to as the "current account") and an investment account (in this section referred to as the "investment account").

(13) The housing authority shall pay into the current account, from time to time, the amount that the authority determines is required for the purposes of—

(*a*) transferring moneys to a sinking fund under this section, and

(*b*) defraying the costs incurred by the authority—

(i) under *subsection (5)(b)*, *(9)* or *(11)*, as the case may be, and

(ii) in the performance of its functions under this section relating to management of the apartment complex support fund.

(14) All other moneys standing to the credit of the apartment complex support fund shall be paid into the investment account.

(15) Whenever the moneys in the current account are insufficient to meet the liabilities of the apartment complex support fund specified in *subsection (13)*, there shall be paid into that account from the investment account the moneys that are necessary to meet those liabilities.

(16) Moneys in the investment account that are not required to meet current and prospective liabilities of that account shall be invested and the investments shall be realised or varied from time to time as occasion requires and the proceeds of any such realisation, and any dividends or other payments received in respect of moneys invested under this paragraph, shall be paid into the investment account or invested under this subsection.

(17) An investment under *subsection (16)* shall be invested in the State and in the currency of the State—

(*a*) in the securities (other than shares in a company) that the housing authority considers appropriate, or

(*b*) by way of deposit of moneys with any credit institution, or the investment of moneys in short term financial products, such as certificates of deposit or commercial paper, issued by any person.".

[#*These are references to the new sections inserted by amendments No. 105, 100 and 108.*]

108. In page 43, before section 42, but in Part 3, the following new section inserted:

"Dispute between housing authority and management company arising under *section 62#(10)*.

63.—(1) Where there is a dispute between the housing authority and the management company on any matter relating to a demand for repayment under *section 62#(10)*, which is subsequently resolved by agreement in writing between the housing authority and the management company, repayment of the amount concerned or any revised amount shall be made by the management company not later than 2 months after the date of the agreement.

(2) Where there is a dispute between the housing authority and the management company relating to the demand for repayment under *section 62#(10)* in respect of a breach of a condition attached under *section 62#(7)(b)* to its agreement to transfer moneys under *section 62#(4)*, subject to the agreement of the parties in writing, the dispute may be resolved by the management company agreeing to carry out, at its expense, such additional works as are agreed by the parties to be necessary to secure compliance with the condition concerned.

(3) Where there is a dispute between the housing authority and the management company on any matter or matters relating to the demand for repayment under *section 62#(10)*, which cannot be resolved to the satisfaction of both parties, the matter shall be determined by conciliation procedures agreed between both parties or, in default of such agreement, by arbitration under the Arbitration Acts 1954 to 1998.".

[# *These are references to the new section inserted by amendment No. 107.*]

109. In page 43, before section 42, but in Part 3, the following new section inserted:

"Accounts of management company.

64.—(1) A management company shall keep all proper and usual books or other accounts of—

(*a*) all moneys received or expended by it, and

(*b*) all property, assets and liabilities of the management company,

including an income and expenditure account and a balance sheet.

(2) Without prejudice to the generality of *subsection (1)*, a management company shall establish, operate and maintain financial systems, accounts, reporting and record keeping procedures, including the preparation of annual financial statements, which are based on generally accepted accounting principles and practices.

(3) A management company shall—

(*a*) submit to the housing authority concerned a copy of its annual audited accounts no later than 4 months after the end of each financial year of the management company to which the accounts relate, and

(*b*) on the request of any member, provide a copy of those accounts at a price not exceeding the reasonable cost of reproduction.

(4) *Subsection (3)(a)* shall cease to apply in respect of the financial year following the financial year in which the sale of an apartment results in the total number of all apartments in the designated apartment complex that are sold exceeding by one the total number, divided by 2, of apartments (including any community apartment) in the designated apartment complex, rounded up to the nearest whole number, as appropriate.".

110. In page 43, before section 42, but in Part 3, the following new section inserted:

"Property services agreement.

65.—(1) In this section "specified body" means—

(*a*) the housing authority which transferred ownership of the designated apartment complex to the management company under an apartment complex transfer order,

(*b*) a company referred to in *subsection (6)*, or

(*c*) an approved body.

(2) Subject to *subsection (3)*, a management company and a specified body may enter into an agreement (in this Part referred to as a "property services agreement") for the purposes of the provision of such property management services, as may be specified in the agreement, to the management company in respect of the designated apartment complex.

(3) In the case of a property services agreement between a management company and a housing authority the agreement shall be for such period not exceeding 5 years from the date of the first sale of an apartment to the tenant thereof under this Part in the designated apartment complex concerned.

(4) A property services agreement shall be in writing and shall be subject to the terms and conditions and include the information specified in *Schedule 4*.

(5) The expenses incurred by a specified body in the provision of property management services pursuant to a property services agreement, shall be recouped to the specified body by the management company in accordance with the terms and conditions of the agreement.

(6) A housing authority may, for the purposes of this section, establish a company whose objects include the provision of property management services to management companies, which company shall be a company formed and registered under the Companies Acts.".

111. In page 43, before section 42, but in Part 3, the following new section inserted:

"Charging order.

66.—(1) As soon as practicable after an apartment is sold to an apartment purchaser under this Part, the housing authority shall , subject to such regulations as may be made under *section 69#*, make an order (in this Part referred to as a "charging order"), in the prescribed form, charging the apartment in the terms specified in this section for the period specified in the order (in this Part referred to as the "charged period").

(2) The charging order shall create a charge in favour of the housing authority in respect of an undivided percentage share (in this Part referred to as the "charged share"), calculated in accordance with *subsection (3)*, in the apartment which charged share shall be reduced in accordance with *subsection (4)*.

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

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

where—

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

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

(4) (*a*) Subject to *paragraph (b)* and *section 67#*, 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 apartment assignment order in respect of each complete year after that date during which an apartment purchaser or a member of his or her household has been in occupation of the apartment as his or her normal place of residence, until the earlier of—

(i) subject to *section 68#*, the first resale of the apartment, or

(ii) subject to *section 67#*, the expiration of the charged period.

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

(5) The housing authority shall, at any time where requested by the apartment purchaser, give a statement in writing in the prescribed form, to the apartment purchaser indicating the accumulated amount of incremental releases that have been applied under the charging order.

(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 apartment, in favour of the housing authority for a charge in the terms provided for in this section.

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

(*a*) be deemed to be a mortgagee of the apartment 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.

(8) Where a housing authority 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 66#(2)* of the *Housing (Miscellaneous Provisions) Act 2009*.

(9) A charging order affecting an apartment 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) A housing authority 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.

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

(*a*) enable a tenant to whom it is proposing to sell an apartment under this Part to obtain an advance of moneys from the holder, society or institution referred to in *subsection (10)* for the purposes of purchasing the apartment, or

(*b*) enable an apartment purchaser—

(i) to refinance an existing advance of moneys from the holder, society or institution referred to in *subsection (10)*, or

(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 under *section 67#* or *68#*, as the case may be, may, without prejudice to any other power in that behalf, be recovered by the housing authority 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.

(14) (*a*) On the occurrence of the earlier of the events specified in *subsection (4)(a)* and subject to the terms and conditions of the apartment assignment order and of the charging order having been complied with, the housing authority shall, where requested to do so by the apartment purchaser, execute a deed of discharge in respect of the charging order.

(*b*) The housing authority shall be liable for any expenses incurred in the execution and registration of a deed of discharge but shall not otherwise be liable for any expenses incurred by an apartment purchaser under this section or under *section 67#* or *68#*.".

[#*These are references to the new sections inserted by amendments No. 114, 112 and 113* .]

112. In page 43, before section 42, but in Part 3, the following new section inserted:

"Suspension of reduction of charged share.

67.—(1) A housing authority may suspend the reduction of the charged share provided for under *section 66#* in respect of any year ending on the anniversary of the apartment assignment order, where the apartment purchaser fails to comply with any of the terms and conditions of the apartment assignment order.

(2) Where the housing authority suspends the reduction of the charged share under *subsection (1)*, the charged share on the property shall be calculated in accordance with the following formula:

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

where—

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

(*b*) Z is the purchase price of the apartment at the time of sale to the apartment purchaser, and

(*c*) R is the portion of the charged share that has been released in accordance with this subsection.

(3) (*a*) Where a housing authority has suspended the reduction of the charged share under *subsection (1)*, the housing authority shall, as soon as practicable thereafter, notify the apartment purchaser in writing of the suspension and the reasons for the suspension.

(*b*) The housing authority shall, on the expiration of the charged period, give a statement to the apartment purchaser in writing, in the prescribed form, indicating the amount of the charge outstanding under the charging order on the date of expiration of the charged period, which amount shall be expressed as a percentage of the market value of the apartment, equivalent to the charged share of the housing authority in the apartment on that date calculated in accordance with *subsection (2)*.

(4) (*a*) The apartment purchaser shall, within 2 months of receipt of the statement referred to in *subsection (3)*, pay to the housing authority the amount set out in the statement.

(*b*) Where the apartment purchaser fails to pay the amount referred to in *paragraph (a)*, s*ection 66#(12)* applies.

(5) For the purposes of this section, "market value" means the price for which an apartment might reasonably be expected to be sold on the date of expiration of the charged period, in its existing state of repair and condition and not subject to the conditions specified in *section 56#(5)* or to a charging order.

(6) (*a*) For the purposes of this section, the market value of an apartment shall be determined by the housing authority or, where the apartment purchaser does not agree with the market value so determined, by an independent valuer nominated by the apartment purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under *section 69#*.

(*b*) The housing authority shall not be liable for any expenses incurred by an apartment purchaser under *paragraph (a)*.".

[#*These are references to the new sections inserted by amendments No. 111, 101 and 114.*]

113. In page 43, before section 42, but in Part 3, the following new section inserted:

"Control on resale of apartment subject to a charging order.

68.—(1) In this section references to an apartment purchaser shall not include a person in whom there subsequently becomes vested, for valuable consideration, the interest of the apartment purchaser or the successor in title of that person and the personal representative of that person or successor in title.

(2) Where an apartment purchaser proposes to sell an apartment during the charged period, he or she shall give prior written notice to the housing authority in accordance with the terms and conditions specified in the apartment assignment order.

(3) Upon receipt of a notice referred to in *subsection (2)*, the housing authority may purchase the apartment for a sum equivalent to its current market value, reduced by an amount equal to that proportion of the current market value of the apartment corresponding to the charged share in the apartment on the date of resale.

(4) Without prejudice to any other power in that behalf, a housing authority may refuse to consent to the sale to any person of the apartment where the housing authority is of the opinion that—

(*a*) the proposed sale price is less than the current market value,

(*b*) the said person 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.

(5) Where an apartment purchaser resells an apartment to a person other than a housing authority during the charged period the apartment purchaser shall pay to the housing authority an amount equal to a percentage of the current market value, such percentage being the equivalent of the charged share of the authority in the apartment on the date of resale of the apartment.

(6) 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.

(7) Where a purchaser resells an apartment which is subject to a charging order the charged period of which has expired and in respect of which the amount referred to in *section 67#(3),* has not been paid in accordance with that section, *section 66#(12)* applies.

(8) (*a*) For the purposes of this section, the current market value of an apartment shall be determined by the housing authority or, where the vendor does not agree with the current 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 69#*.

(b) The housing authority shall not be liable for any expenses incurred by a vendor under *paragraph (a)*.".

[#*These are references to the new sections inserted by amendments No. 112, 111 and 114.*]

114. In page 43, before section 42, but in Part 3, the following new section inserted:

"Regulations (*Part 4*).

69.—The Minister may make regulations for the purposes of this Part in relation to all or any one or more of the following:

(*a*) the class or classes of apartment that are excluded from sale under this Part;

(*b*) the minimum period for which a person must be a tenant for the purposes of making an application to purchase an apartment under this Part, which period shall not in any case be less than one year before the date of the making of such application;

(*c*) the method for determining the purchase price;

(*d*) the method for determining the purchase money, taking account of the financial circumstances of tenants to whom apartment may be sold;

(*e*) the method for determining the amount of a deposit to be paid by the apartment purchaser under *section 56#(6)* in respect of the purchase of an apartment under this Part;

(*f*) the form of, and terms and conditions to be specified in, an apartment complex transfer order, an apartment transfer order and an apartment assignment order;

(*g*) the form of a charging order;

(*h*) 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 an apartment sold under this Part, which period shall not in any case be less than 20 years from the date of the apartment assignment order;

(*i*) the determination of the floor area of an apartment, for the purpose of *section 59#(7)*;

(*j*) the proportion of the sum of the purchase price of each apartment in the designated apartment complex that a housing authority shall pay into the apartment complex support fund under *section 62#(2)* and the maximum amount that it shall pay into the fund under that provision;

(*k*) the form of the statement to be issued by a housing authority under *section 66#(5)* or *67#(3)*, as the case may be;

(*l*) the class or classes or description of person who are suitably qualified by reference to their qualifications and experience to determine the current market value or market value (within the meaning of *section 67#*), as the case may be, of an apartment for any of the purposes of this Part.".

[#*These are references to the new sections inserted by amendments No. 101, 104, 107, 111 and 112.*]

115. In page 43, before section 42, but in Part 3, the following new section inserted:

"PART 5#

AFFORDABLE DWELLING PURCHASE ARRANGEMENTS

Interpretation (*Part 5*).

70.—(1) In this Part—

"affordable dwelling" has the meaning given to it by *section 74#*;

"Affordable Dwellings Fund" has the meaning given to it in *section 86#*;

"affordable dwelling purchase arrangement" has the meaning given to it by *section 75#*;

"charging order" has the meaning given to it by *section 78#*;

"charged period" has the meaning given to it by *section 78#*;

"direct sales agreement" has the meaning given to it by *section 72#*;

"eligible household" means a household assessed by a housing authority under *section 76#* as being eligible for an affordable dwelling purchase arrangement;

"market value", in relation to an affordable dwelling, means the price for which the dwelling might reasonably be expected to be sold on the open market;

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

"open market dwelling" has the meaning given to it by *section 73#*;

"Part V agreement" has the meaning given to it be *section 72#*;

"purchase money", in relation to an affordable dwelling, means 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 by an eligible household to purchase the dwelling under an affordable dwelling purchase arrangement;

"purchaser" means a person who purchases an affordable dwelling under an affordable dwelling 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;

"scheme of priority" has the meaning given to it by *section 77#*.

(2) In this Part save where the context otherwise requires, a reference to a transfer of ownership shall be construed as a reference to a deed of transfer, conveyance or assignment.

(3) (*a*) Material improvements to an apartment shall not be taken into account for any of the purposes of this Part.

(*b*) In this subsection "apartment" means a separate and self-contained dwelling in a premises, divided into 2 or more such apartments, which requires arrangements for the upkeep and management of all or any part of the common areas, structures, works or services other than by the purchaser.".

[*#Note: The new Part comprehends the inclusion of amendments No. 116 to 133.*]

[*#These are references to the new sections inserted by amendments No. 119, 131, 120, 123, 117, 121, 118 and 122*.]

116. In page 43, before section 42, but in Part 3, the following new section inserted:

"Provision of dwellings.

71.—(1) A housing authority may make dwellings available for the purpose of sale to eligible households under affordable dwelling purchase arrangements and may, in accordance with the *Housing Acts 1966 to 2009* and regulations made thereunder, acquire, build or cause to be built, or otherwise provide or facilitate the provision of, dwellings for that purpose.

(2) A housing authority may, for the purposes of *subsection (1)*, enter into—

(*a*) arrangements with an approved body, or

(*b*) public private partnership arrangements.

(3) 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 making dwellings available under this section to all or any of the following:

(*a*) a housing authority, in respect of dwellings made available by the authority or provided by an approved body or other person on behalf of the authority;

(*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 dwellings acquired or provided by it on behalf of housing authorities;

(*c*) such other body, established by or under statute, as the Minister may prescribe by order for the purposes of this section whose functions include the provision of services to a housing authority in relation to the acquisition of dwellings.

(4) In performing its functions under *subsection (1)*, a housing authority shall have regard to its housing services plan and the need to—

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

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

117. In page 43, before section 42, but in Part 3, the following new section inserted:

"Direct sales agreement.

72.—(1) This section applies to the following persons—

(*a*) a person with whom the housing authority has a contract for the provision of dwellings for the purposes of *section 71#*,

(*b*) a public private partnership with whom the housing authority has entered into an arrangement under *section 71#(2)(b)* for the provision of dwellings for the purposes of that section, and

(*c*) a person with whom the planning authority has entered into an agreement under section 96(2) of Part V of the Planning and Development Act 2000 for the provision of dwellings referred to in section 94(4)(*a*) of that Act (in this Part referred to as a "Part V agreement").

(2) A housing authority, pursuant to its functions under *section 71#*, or a planning authority, pursuant to its functions under Part V of the Planning and Development Act 2000, may enter into an agreement (in this Part referred to as a "direct sales agreement") with a person to whom this section applies for the direct sale, in accordance with this Part, of the dwellings specified in the agreement to eligible households nominated by the housing authority in accordance with a scheme of priority.

(3) A direct sales agreement shall provide that a person to whom this section applies may carry out any necessary transactions in relation to the direct sale, in accordance with this Part, of the dwellings specified in the agreement to eligible households, subject to the terms and conditions specified in *subsection (4)*.

(4) The terms and conditions referred to in *subsection (3)*—

(*a*) shall include the following:

(i) that the sale price for each dwelling specified in the agreement shall be the purchase money;

(ii) that the dwellings specified in the agreement shall be sold directly to eligible households nominated by the housing authority in accordance with a scheme of priority;

(iii) terms and conditions relating to—

(I) arrangements for the completion of sales,

(II) notification of sales to the housing authority, and

(III) any other matters relating to the sale of the dwellings specified in the agreement to eligible households,

and

(*b*) may include such other terms and conditions relating to the transactions referred to in *subsection (3)* as may be prescribed for the purposes of affordable dwelling purchase arrangements.

(5) In the case of a Part V agreement, where the total amount due under a direct sales agreement to a person referred to in *subsection (1)(c)* is less than the amount due to such person under the Part V agreement, the amount of any such difference shall be paid by the housing authority to that person.".

[# *These are references to the new section inserted by amendment No. 116.*]

118. In page 43, before section 42, but in Part 3, the following new section inserted:

"Open market dwelling.

73.—(1) A housing authority may, subject to the *Housing Acts 1966 to 2009*, and regulations made thereunder, provide financial assistance to an eligible household to purchase a dwelling (in this Part referred to as an "open market dwelling") under an affordable dwelling purchase arrangement, subject to the dwelling being—

(*a*) available for purchase in the State, and

(*b*) of a class of dwelling prescribed under *section 87#(1)(a)* for the purposes of this section.

(2) The amount of financial assistance which may be provided to an eligible household under this section in respect of the purchase of an open market dwelling —

(*a*) shall be the difference between the purchase money and the market value of the dwelling, and

(*b*) shall not exceed such maximum amount as the Minister may prescribe under *section 87#(1)(d)*.".

[# *These are references to the new section inserted by amendment No. 132.*]

[*SECTION 42*]

119. In page 43, before section 42, but in Part 3, the following new section inserted:

"Application of *Part 5#*.

74.—This Part applies to the following dwellings (in this Part referred to as "affordable dwellings"):

(*a*) dwellings made available by a housing authority under *section 71#*;

(*b*) dwellings to which a Part V agreement applies, including dwellings made available for sale under such an agreement but not yet sold before the coming into operation of this Part;

(*c*) dwellings made available for sale in accordance with Part 2 of the Act of 2002 but not yet sold before the coming into operation of this Part and *section 7* (in so far as it applies to the said Act);

(*d*) open market dwellings.".

[#*This is a reference to the new section inserted by amendment No. 116.*]

120. In page 43, before section 42, but in Part 3, the following new section inserted:

"Affordable dwelling purchase arrangements.

75.—(1) A housing authority may, in accordance with this Part and the Housing Acts 1966 to 2004 and subject to such regulations as may be made under *section 87#*, enter into an arrangement (in this Part referred to as an "affordable dwelling purchase arrangement") for the sale of an affordable dwelling under this Part to an eligible household in accordance with a scheme of priority.

(2) The arrangements referred to in *subsection (1)* are as follows:

(*a*) in the case of an affordable dwelling which is the subject of a direct sales agreement, in consideration of the receipt of the purchase money specified in the agreement, the dwelling may be sold to an eligible household in accordance with and subject to the terms and conditions specified in *subsection (3)*, the terms and conditions of a charging order and such other terms and conditions as may be prescribed for the purposes of affordable dwelling purchase arrangements;

(*b*) in the case of an affordable dwelling referred to in *section 74#(a)*, *(b)*, or *(c)*, in consideration of the receipt by the housing authority of the purchase money, the housing authority shall transfer its ownership in the dwelling by means of an order (in this Part referred to as a "transfer order"), in the prescribed form, made by the housing authority which shall be expressed and shall operate to vest, on the date specified in the transfer order, the interest specified in the order, in accordance with and subject to the terms and conditions specified in *subsection (3)*, the terms and conditions of a charging order and such other terms and conditions as may be prescribed for the purposes of affordable dwelling purchase arrangements;

(*c*) in the case of an open market dwelling, the provision by the housing authority of financial assistance under *section 73#* to an eligible household to purchase the dwelling subject to the terms and conditions specified in *subsection (3)*, the terms and conditions of a charging order and such other terms and conditions as may be prescribed for the purposes of affordable dwelling purchase arrangements.

(3) The terms and conditions referred to in *subsection (2)*—

(*a*) shall include the following:

(i) that where the purchaser sells the dwelling during the charged period, the purchaser shall pay to the housing authority an amount calculated in accordance with *section 82#*;

(ii) that the dwelling shall, during the charged period, unless the housing authority gives its prior written consent, be occupied as the normal place of residence of the purchaser or of a member of the purchaser's household;

(iii) that the dwelling or any part thereof shall not, during the charged period, without the prior written consent of the housing authority, be let or sublet;

(iv) terms and conditions relating to the making of payments under *section 79#*, *81#* or *82#,* as the case may be, and the consequences for the purchaser of failure to make those payments,

and

(*b*) may include the following:

(i) that the dwelling or any part thereof shall not, during the charged period, without the prior written consent of the housing authority, be sold, assigned or otherwise disposed of or mortgaged, charged or alienated, otherwise than by devise or operation of the law;

(ii) terms and conditions relating to the payment by the eligible household of a deposit of such amount as may be prescribed under *section 87# (1)(e)(ii)*.

(4) Save as provided for by any other enactment or regulations made thereunder, the sale of a dwelling under an affordable dwelling purchase arrangement referred to in *subsection (2)(a)* shall not imply any warranty on the part of the housing authority concerned in relation to the state of repair or condition of the dwelling or its fitness for human habitation.

(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 an affordable dwelling purchase arrangement.

(6) Nothing in this Part shall preclude a housing authority from making a loan under section 11 of the Act of 1992 to an eligible household for any of the purposes of this Part.".

[#*These are references to the new sections inserted by amendments No. 132, 119, 118, 127, 124 and 126.*]

121. In page 43, before section 42, but in Part 3, the following new section inserted:

"Assessment of eligibility of household for affordable dwelling purchase arrangement.

76.—(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.

(2) Where a household applies to a housing authority to purchase an affordable dwelling under an affordable dwelling purchase arrangement, the housing authority shall, subject to and in accordance with this section and any regulations made under this section and *section 87#*, carry out an assessment of the household's eligibility for an affordable dwelling purchase arrangement taking account of the following:

(*a*) the accommodation needs of the household, having regard to, but not necessarily limited to the following—

(i) the current housing circumstances of the household,

(ii) the distance of such preferred location or locations as the household may indicate in its application from the place of employment of any member of the household, and

(iii) whether any members of the household are attending any university, college, school or other educational establishment in the administrative area concerned;

(*b*) subject to *subsection (3)*, whether the income of the household is adequate to meet the repayments on a mortgage for the purchase of a dwelling to meet the accommodation needs of the household because the payments calculated over the course of a year would exceed 35 per cent of the annual income of the household net of income tax and pay related social insurance;

(*c*) subject to *subsections (4)* and *(5)*, whether the household or any household member has previously purchased or built a dwelling for his or her occupation or for any other purpose in the State;

(*d*) subject to *subsections (4)* and *(5)*, whether the household or any household member either owns, or is beneficially entitled to, an interest in any dwelling or land in the State or elsewhere.

(3) For the purposes of *subsection (2)(b)*, any other assets of the household which could be used to defray all or any part of the cost of providing accommodation to meet the accommodation needs of the household shall be taken into account.

(4) Where the household making an application for the purposes of this section, or any member of the household, was a spouse to a marriage the subject of a deed of separation, a decree of judicial separation, a decree of divorce or a decree of nullity, *subsection (2)(c)* shall not apply, provided that, in relation to the former family home (within the meaning of the Family Home Protection Act 1976), the spouse concerned—

(*a*) has not retained an interest in that home, and

(*b*) immediately before the date of the deed of separation or decree concerned is not beneficially entitled to an interest in a dwelling other than the said family home.

(5) Where, having regard to its accomodation needs referred to in *subsection (2)(a)*, a household requires to relocate to either a different dwelling or administrative area or both, *subsection (2)(c)* shall not render the household ineligible for an affordable home purchase arrangement where the household—

(*a*) has previously purchased a dwelling under an affordable dwelling purchase arrangement, or

(*b*) before the coming into operation of this Part, purchased a dwelling referred to in *section 74#(b)* or *(*c).

(6) For the purposes of *subsection (2)(b)*, "mortgage" means a loan (other than a loan made for the purposes of the purchase of an affordable dwelling referred to in *section 74#(d)*) for the purchase of a dwelling secured by a mortgage in an amount not exceeding 90 per cent of the market value of the dwelling.

(7) The Minister may make regulations providing for the means by which the eligibility of households for an affordable dwelling purchase arrangement shall be assessed including, but not necessarily limited to, the following:

(*a*) the procedures to be applied by a housing authority for the purposes of assessing a household's eligibility by reference to income and other financial circumstances having regard to *subsections (2)(b)*, *(3)*, *(4)* and *(5)*;

(*b*) having regard to the different classes of household in the administrative area concerned and the different classes of dwellings purchased by first-time purchasers in that administrative area and the average market value of those dwellings, the methodology according to which the housing authority shall determine, for the purposes of *subsection (2)(b)*, the purchase price of a dwelling suitable to a household's accommodation needs;

(*c*) the availability to the household of alternative accommodation that would meet its accommodation needs;

(*d*) any affordable dwelling or other housing support previously provided by any housing authority to the household which may be taken account of by a housing authority in making an assessment of eligibility under this section.".

[# *These are references to the new sections inserted by amendment No. 119 and 132.*]

122. In page 43, before section 42, but in Part 3, the following new section inserted:

"Scheme of priority for affordable dwelling purchase arrangements.

77.—(1) A housing authority shall, not later than one year after the coming into operation of this Part, in accordance with this section and regulations made thereunder, make a scheme (in this Part referred to as a "scheme of priority") determining the order of priority to be accorded to eligible households in relation to —

(*a*) the sale of affordable dwellings referred to in *section 74#(a)*, *(b)* and *(c)* where the demand for such dwellings exceeds the number of such dwellings available for the purposes of this Part, and

(*b*) the provision of financial assistance under *section 73#* to eligible households to purchase open market dwellings where the demand for such financial assistance exceeds the financial resources available to the housing authority to provide such assistance.

(2) The Minister may make regulations providing for the matters to be included in a scheme of priority, including the following:

(*a*) the manner in which affordable dwellings are made available or, in the case of open market dwellings, financial assistance is provided under *section 73#* to different classes of eligible households including—

(i) the nomination of eligible households to dwellings the subject of a direct sales agreement, and

(ii) the determination of the suitability of the dwellings by reference to size and location, having regard to the circumstances of eligible households, including but not necessarily limited to, family and financial circumstances;

(*b*) the classification of eligible households for the purposes of *subsection (3)*;

(*c*) the order of priority in accordance with which affordable dwellings are sold or, in the case of open market dwellings, financial assistance is provided under *section 73#* to eligible households, including the priority as between eligible households who fall within the same classification referred to in *paragraph (b)*, taking account of—

(i) the period that has elapsed since the eligibility of the household was assessed under *section 76#* for an affordable dwelling purchase arrangement,

(ii) any preferences of the eligible household in respect of the type of dwelling and its location,

(iii) the income or other financial circumstances of the eligible household, and

(iv) the period for which the eligible household has resided in the administrative area of the housing authority;

(*d*) such other matters as the Minister considers necessary and appropriate for the purposes of making a scheme of priority.

(3) To facilitate the sale of affordable dwellings under this Part or, in the case of open market dwellings, the provision of financial assistance under *section 73#* to eligible households, a scheme of priority shall provide for the classification of eligible households of similar circumstances by reference to the order of priority established in accordance with regulations made for the purposes of *subsection (2)(c)*.

(4) A housing authority may from time to time review a scheme of priority and, as it considers necessary and appropriate, amend the scheme or make a new scheme.

(5) The making of a scheme of priority or the amendment of such a scheme are reserved functions.

(6) The sale of affordable dwellings to eligible households under this Part and, in the case of open market dwellings, the provision of financial assistance under *section 73#* to eligible households are executive functions.

(7) Notwithstanding the repeal by this Act of section 98 of the Planning and Development Act 2000 and section 8 of the Act of 2002, a scheme established under the said section 98 or the said section 8, as the case may be, and in force immediately before the coming into operation of this Part continues to have effect after such coming into operation and is deemed to have been made under this section until a scheme of priority made under this section comes into force.

(8) A housing authority shall make a copy of its scheme of priority 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.

(9) Before making or amending a scheme of priority, 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.

(10) The Minister may, as he or she considers necessary and appropriate, direct a housing authority to amend a scheme of priority, 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.".

[#*These are references to the new sections inserted by amendments No. 119, 118 and 121.*]

123. In page 43, before section 42, but in Part 3, the following new section inserted:

"Charging order.

78.—(1) As soon as practicable after an affordable dwelling is sold to an eligible household under an affordable dwelling purchase arrangement, the housing authority shall, subject to such regulations as may be made under *section 87#*, 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 (in this Part referred to as the "charged period") with an amount that shall be expressed in the order in the following terms.

(2) The terms referred to in *subsection (1)* are that the amount charged is—

(*a*) an amount equal to the difference between the purchase money and the market value of the dwelling, or

(*b*) in the case of an open market dwelling, the amount of financial assistance provided under *section 73#* to the eligible household,

expressed as a percentage of the market value calculated in accordance with the following formula:

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

Z

where

(i) Y is—

(I) the difference between the purchase money and the market value of the dwelling, or

(II) the financial assistance provided under *section 73#* to the eligible household,

as the case may be, and

(ii) Z is the market value of the dwelling at the time of sale to the purchaser.

(3) A charge under *subsection (1)* shall be discharged by the housing authority on the earlier of—

(*a*) subject to *section 82#*, the first resale of the dwelling, or

(*b*) subject to *sections 79#*, the repayment in full of the amount of the charge outstanding under the charging order, or

(*c*) subject to *section 81#*, the expiration of the charged period.".

[#*These are references to the new sections inserted by amendments No. 132, 118, 127, 124 and 126.*]

124. In page 43, before section 42, but in Part 3, the following new section inserted:

"Payments by purchaser during charged period.

79.—(1) A purchaser of a dwelling under an affordable dwelling purchase arrangement which is subject to a charging order may, subject to *subsection (3)*, at any time or times after the fifth anniversary of the date of sale of the dwelling to the purchaser but during the charged period, make a payment or payments to the housing authority concerned.

(2) Where a purchaser makes a payment under this section the amount of the charge outstanding under the charging order shall be reduced accordingly in the manner specified in *subsection (5)*.

(3) A payment made under this section shall not be less than the amount prescribed for the purposes of this section.

(4) A purchaser who proposes to make a payment under this section shall notify the housing authority in writing in the prescribed form specifying the amount of the proposed payment.

(5) As soon as practicable but not later than one month after receipt of a notification under *subsection (4)*, the housing authority shall give a written statement to the purchaser—

(*a*) setting out the market value or, where material improvements have been carried out, the net market value of the dwelling, determined by the housing authority, such valuation being taken as the prevailing market value or prevailing net market value for the purposes of *paragraph (c)*,

(*b*) advising the purchaser whether the condition specified in *subsection (3)* is satisfied, and

(*c*) where the condition specified in *subsection (3)* is satisfied and taking account of the amount of the proposed payment, setting out the amount of the charge which shall remain outstanding under the charging order following such payment, which amount shall be calculated in accordance with the following formula:

Y-Z%

where—

(i) Y is the amount of the charge specified in the charging order or in any previous statement given under this subsection, and

(ii) Z is the percentage which the sum paid under *subsection (1)* represents of the prevailing market value of the dwelling or, where material improvements have been made to the dwelling by the purchaser, the prevailing net market value of the dwelling, referred to in *paragraph (a)*.

(6) The statement given under *subsection (5)* is valid for 3 months from the date thereof and any payment made after the expiry of that period pursuant to that statement shall be treated as a new notification under *subsection (4)* and this section shall apply to such notification accordingly.

(7) Where the housing authority receives a payment under this section from the purchaser which is equivalent to the amount of the charge outstanding under the charging order, the housing authority shall discharge the charge.

(8) Subject to *section 84#*, where a payment is made under this section, the housing authority shall be liable for any expenses, including in respect of the valuation of the dwelling, incurred under this section.".

[#*This is a reference to the new section inserted by amendment No. 129.*]

125. In page 43, before section 42, but in Part 3, the following new section inserted:

"Registration of charging orders and agreements with financial institutions.

80.—(1) 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, for a charge in the terms provided for in *section 78#*.

(2) Accordingly, the housing authority shall, as and from the making of the charging order, as the case may be—

(*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 (1)*, all the powers conferred by those Acts on mortgagees under mortgages made by deed.

(3) Where a housing authority 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 78#* of the *Housing (Miscellaneous Provisions) Act 2009*.

(4) 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.

(5) A housing authority may, subject to *subsection (6)*, 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.

(6) A housing authority may only enter into an agreement referred to in *subsection (5)* if it considers that the agreement will—

(*a*) enable an eligible household with whom it is proposing to enter into an affordable dwelling purchase arrangement to obtain an advance of moneys from the holder, society or institution referred to in *subsection (5)* for the purposes of purchasing the dwelling, or

(*b*) enable a purchaser—

(i) to refinance an existing advance of moneys from the holder, society or institution referred to in *subsection (5)*, or

(ii) to obtain a further advance of moneys from the holder, society or institution referred to in *subsection (5)*, for any purpose.

(7) For the avoidance of doubt, neither a charging order nor a charge that arises under a charging order shall be regarded as a conveyance for the purposes of section 3 of the Family Home Protection Act 1976.".

[# *These are references to the new section inserted by amendment No. 123.*]

126. In page 43, before section 42, but in Part 3, the following new section inserted:

"Repayment on expiration of charged period.

81.—(1) Subject to *subsection (2)*, within 1 month of the expiration of the charged period, the purchaser shall pay to the housing authority an amount equal to the amount of the charge outstanding under the charging order on the date of expiration of the charged period.

(2) Where material improvements have been made to the dwelling, the purchaser shall pay to the housing authority an amount equal to that proportion of the net market value of the dwelling as corresponds to the amount of the charge outstanding under the charging order on the date of expiration of the charged period.

(3) Where the purchaser fails to pay the amount referred to in *subsection (1)* or *(2)*, as appropriate, *section 83#* applies.".

[#*This is a reference to the new section inserted by amendment No. 128.*]

127. In page 43, before section 42, but in Part 3, the following new section inserted:

"Control on resale of dwelling purchased under affordable dwelling purchase arrangement.

82.—(1) Where, before the expiration of the charged period, a purchaser resells a dwelling which is subject to a charging order which has not been discharged, the purchaser shall pay to the housing authority an amount equal to a percentage of the market value, such percentage being the equivalent of the amount of the charge outstanding under the charging order.

(2) Where material improvements have been made to a dwelling referred to in *subsection (1)*, the purchaser shall pay to the housing authority an amount equal to that proportion of the net market value of the dwelling as corresponds to the amount of the charge outstanding under the charging order.

(3) (*a*) Subject to *paragraph (b)*, where a purchaser resells a dwelling which is subject to a charging order which has expired and in respect of which the amount referred to in *section 81#(1)* or *(2)*, as appropriate, has not been paid in accordance with that section, *section 83#* applies.

(*b*) No account shall be taken of any material improvements made to the dwelling after the expiration of the charged period.".

[#*These are references to the new sections inserted by amendments No. 126 and 128.*]

128. In page 43, before section 42, but in Part 3, the following new section inserted:

"Recovery of amounts due to housing authority.

83.—Any amount that becomes payable to a housing authority under *section 81#* or *82#*, as the case may be, 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.".

[#*These are references to the new sections inserted by amendments No. 126 and 127.*]

129. In page 43, before section 42, but in Part 3, the following new section inserted:

[*SECTION 42*]

"Valuation of dwelling for certain purposes.

84.—(1) For the purposes of *sections 78#, 79#, 81#* and *82#*, the market value of the dwelling concerned shall be determined by the housing authority or, where the purchaser does not agree with the market value so determined, by an independent valuer nominated by the purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed under *section 87#*.

(2) The housing authority shall not be liable for any expenses incurred under *subsection (1)* by a purchaser.".

[*#These are references to the new sections inserted by amendments No. 123, 124, 126, 127 and 132.*]

130. In page 43, before section 42, but in Part 3, the following new section inserted:

"Discharge of charging order.

85.—(1) Subject to *sections 78#* to *83#* and the terms and conditions of the affordable dwelling purchase arrangement and of the charging order having been complied with, the housing authority shall, where requested to do so by the purchaser, execute a deed of discharge in respect of the charging order.

(2) The housing authority shall be liable for such expenses as may be incurred in the execution and registration of a deed of discharge but shall not otherwise be liable for any expenses incurred by a purchaser for the purposes of this section.".

[*#These are references to the new sections inserted by amendments No. 123 and 128.*]

131. In page 43, before section 42, but in Part 3, the following new section inserted:

"Affordable Dwellings Fund.

86.—(1) There shall stand established, on the coming into operation of this Part, a fund to be known and in this Act referred to as the Affordable Dwellings Fund (in this section referred to as the "Fund").

(2) Housing authorities shall pay into the Fund—

(*a*) any moneys paid by purchasers pursuant to *section 79#*, *81#*, *82#* or *83 #*,

(*b*) in the case of dwellings purchased under section 3 of the Act of 1992 before the coming into operation of this Part and *section 7* (in so far as it applies to the said Act and the Act of 2002), any moneys paid in accordance with section 10 of the Act of 2002 before the said coming into operation,

(*c*) any moneys paid in accordance with section 99(4) of the Planning and Development Act 2000 before the coming into operation of this Part and *section 7* (in so far as it applies to the said Act), and

(*d*) in the case of dwellings purchased under Part 2 of the Act of 2002 before the coming into operation of this Part and *section 7* (in so far as it applies to the said Act), any moneys paid in accordance with section 9 of that Act before the said coming into operation.

(3) A housing authority may make payments into the Fund from an account established pursuant to section 96(13) of the Planning and Development Act 2000.

(4) The Minister may, out of moneys provided by the Oireachtas, pay into the Fund in any financial year such amount as he or she determines, with the consent of the Minister for Finance, in relation to that year.

(5) Subject to and in accordance with the Housing Finance Agency Act 1981 and *subsection (6)*—

(*a*) the Housing Finance Agency plc shall manage and control the Fund,

(*b*) any monies in the Fund shall be accounted for in a separate account of the Housing Finance Agency plc, and

(*c*) the Housing Finance Agency plc may advance monies from the Fund to housing authorities for the purposes of providing housing support under this Act.

(6) The accounts of the Fund shall be in such form and prepared in such manner as the Minister may determine and shall—

(*a*) be prepared separately from any other accounts of the Housing Finance Agency plc, and

(*b*) shall comprise—

(i) a balance sheet as at the end of the accounting year duly audited by the auditor of the Housing Finance Agency plc, and

(ii) an income and expenditure account for the accounting year so audited.

(7) The Housing Finance Agency plc shall, where the Minister so requests, provide an estimate of the projected income of and expenditure from the Fund for such period as the Minister may specify in the request.

(8) Where, taking account of any estimate that may be provided under *subsection (7)*, the Minister is satisfied that the amount of moneys in the Fund exceeds the amount required to meet the costs to the Housing Finance Agency plc of borrowing money, in accordance with section 10 of the Housing Finance Agency Act 1981, the Minister may distribute any surplus funds to housing authorities for the purposes specified in *subsection (5)(c)*.

(9) The administrative costs incurred by the Housing Finance Agency plc in the management of the Fund shall be met from the Fund.".

[#*These are references to the new sections inserted by amendments No. 124, 126, 127 and 128.*]

132. In page 43, before section 42, but in Part 3, the following new section inserted:

"Regulations. 87.—(1) The Minister may make regulations in relation to all or any one or more of the following:

(*a*) the class or classes of dwelling in respect of which financial assistance may be provided to eligible households for the purposes of *section 73#*;

(*b*) subject to *section 76#*, the class or classes of households with whom affordable dwelling purchase arrangements may be entered into;

(*c*) the minimum and maximum of the amount which may be charged under a charging order, the maximum of which shall not in any case exceed 40 per cent of the market value of the dwelling concerned;

(*d*) the maximum amount of the financial assistance which may be provided under *section 73#* to an eligible household to purchase an open market dwelling under an affordable dwelling purchase arrangement;

(*e*) the form and manner of, and the terms and conditions to be specified in, affordable dwelling purchase arrangements, including the following—

(i) the provision of mortgage protection insurance, and

(ii) the minimum deposit payable by the household in respect of the purchase of an affordable dwelling;

(*f*) the form of a transfer order;

(*g*) the form and content of a charging order;

(*h*) the determination of the minimum charged period, or the range within which a housing authority shall fix the minimum charged period, which shall not in any case be less than 25 years from the date of sale;

(*i*) subject to *subsection (2)*, the amount to be prescribed in respect of a payment under *section 79#*;

(*j*) the form and manner in which a purchaser shall notify a housing authority of his or her proposal to make a payment under *section 79#*;

(*k*) 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 for any of the purposes of this Part;

(*l*) such other matters as the Minister considers necessary and appropriate relating to the provision of affordable dwellings or affordable dwelling purchase arrangements.

(2) For the purposes of *subsection (1)(h)*, the Minister may prescribe an amount or a percentage of the market value of the dwelling at the time of the payment under *section 79#*.".

[*#These are references to the new sections inserted by amendments No. 118, 121, and 124.*]

133. In page 43, before section 42, but in Part 3, the following new section inserted:

"Transitional arrangements and savings provisions.

88.—(1) Where a household has applied for affordable housing under Part 2 of the Act of 2002 or Part V of the Planning and Development Act 2000 before the coming into operation of this Part, *section 7* (in so far as it applies to the Act of 2002 or the Planning and Development Act 2000, as the case may be) and *section 8* (in so far as it applies to the Planning and Development Act 2000), and a decision has not been made to allocate a dwelling or site before the said coming into operation, the household shall, on the said coming into operation, be deemed to have applied to purchase an affordable dwelling under an affordable dwelling purchase arrangement and this Part shall apply accordingly with any necessary modifications.

(2) On the coming into operation of this Part, a housing authority shall notify in writing each household referred to in *subsection (1)* that it considers their application for affordable housing to be an application to purchase an affordable dwelling under an affordable dwelling purchase arrangement, and any such household is required to notify the housing authority in writing within 3 months of the date of such notification where the household does not wish to proceed with the application concerned on that basis.

(3) Where a household applies to a housing authority in respect of the grant of a shared ownership lease under section 3 of the Act of 1992 before the coming into operation of this Part and *section 7* (in so far as it applies to the Act of 1992) and a decision to grant the lease has not been made by the housing authority before the said coming into operation, the household shall, on the said coming into operation, be deemed to have applied to purchase an open market dwelling under an affordable dwelling purchase arrangement and this Part shall apply accordingly with any necessary modifications.

(4) On the coming into operation of this Part, a housing authority shall notify in writing each household referred to in *subsection (3)* that it considers their application for the grant of a shared ownership lease under section 3 of the Act of 1992 to be an application to purchase an open market dwelling under an affordable dwelling purchase arrangement, and any such household is required to notify the housing authority in writing within 3 months of the date of such notification where the household does not wish to proceed with the application concerned on that basis.

(5) Not withstanding the repeal by *section 7* of sections 2, 3 and 9 of the Act of 1992 and section 10 of the Act of 2002, those provisions and any regulations made thereunder shall, after the coming into operation of *section 7* (in so far as it applies to the Act of 1992 and the Act of 2002), continue to apply to a shared ownership leases granted under section 3 of the Act of 1992 before the said coming into operation of section 7 as if *section 7* had not come into operation.

(6) Notwithstanding the repeal by *section 7* of sections 98, 99 and 100 of the Planning and Development Act 2000, those provisions and any regulations made thereunder shall, after the coming into operation of *section 7* (in so far as it applies to the said Act), continue to apply to affordable housing (within the meaning of that Act) sold or leased under section 98 of that Act before the said coming into operation of *section 7* as if *section 7* had not come into operation.

(7) Notwithstanding the repeal by *section 7* of sections 6, 8 and 9 of the Act of 2002, those provisions and any regulations made thereunder shall, after the coming into operation of *section 7* (in so far as it applies to the said Act), continue to apply to affordable houses (within the meaning of that Act) sold before the said coming into operation of *section 7* as if *section 7* had not come into operation.".

[*SECTION 42*]

134. In page 45,lines 4 and 5, subsection 4(*d*) deleted and the following substituted:

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

SECTION 43

135. In page 45,subsection (2), line 19, after "purchaser," "the vendor shall pay to the housing authority" inserted.

136. In page 45, subsection (2), lines 21 and 22, to delete ", shall be paid by the vendor to the housing authority".

137. In page 47, between lines 15 and 16, the following new subsection inserted:

"(17) The housing authority shall not be liable for any expenses incurred by a vendor under *subsection (16)*.".

SECTION 44

138. In page 48, subsection (7), line 18, "*subsection (4)*" deleted and "*section 44 (4)#*" substituted.

[*#This is a reference to the new section inserted by amendment No. 89.*]

139. In page 48, after line 32, the following new Part inserted:

"PART 6

AMENDMENTS TO THE RESIDENTIAL TENANCIES ACT 2004

Amendments to Residential Tenancies Act 2004

100.—(1) In this section "Act of 2004" means the Residential Tenancies Act 2004.

(2) Section 3 of the Act of 2004 is amended—

(**a**) in *subsection (2)(c)(ii)*, by substituting "a household within the meaning of the *Housing (Miscellaneous Provisions) Act 2009* assessed under *section 20* of that Act as being qualified for social housing support" for "a person referred to in section 9(2) of the Housing Act 1988", and

(**b**) by inserting the following subsection:

"(3) Notwithstanding the definition of "tenancy" in section 5(1), in this section a reference to a tenancy does not include a tenancy the term of which is more than 35 years.".

(3) Section 12 of the Act of 2004 is amended—

(a) in subsection (1), by inserting the following after paragraph (*b*):

"(*ba*) provide receptacles suitable for the storage of refuse outside the dwelling, save where the provision of such receptacles is not within the power or control of the landlord in respect of the dwelling concerned,",

(*b*) in subsection (4)(*a*), by substituting the following for subparagraph (i):

"(i) the payment of rent, or any other charges or taxes payable by the tenant in accordance with the lease or tenancy agreement, and the amount of rent or such other charges or taxes in arrears is equal to or greater than the amount of the deposit, or",

and

(c) by substituting the following for subsection (4)(*b*):

"(*b*) where, at the date of the request for return or repayment, there is a default in—

(i) the payment of rent, or any other charges or taxes payable by the tenant in accordance with the lease or tenancy agreement, or

(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).".

(4) Section 135 of the Act of 2004 is amended—

(*a*) by deleting subsection (2), and

(*b*) in subsection (5), by substituting "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".

(5) The Act of 2004 is amended by inserting the following section after section 147:

"Disclosure of certain information to Revenue Commissioners.

147A.—The Board shall, at such intervals as are specified by the Revenue Commissioners, disclose to the Revenue Commissioners information contained in the register the disclosure of which to the Revenue Commissioners is reasonably necessary for the performance by the Revenue Commissioners of their functions.".

(6) The amendment provided for in *subsection (2)(b)* does not affect any matter referred to the Private Residential Tenancies Board for resolution under Part 6 of the Act of 2004 before the coming into operation of this section.".

[*SCHEDULE 1*]

SCHEDULE 1

140. In page 49, lines 2 to 13 deleted and the following substituted:

Section 7

"REPEALS

Item	Number and Year	Short Title	Extent of Repeal
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	Sections 2, 3 and 9
4	No. 30 of 2000	Planning and Development Act 2000	Sections 98, 99 and 100
5	No. 9 of 2002	Housing (Miscellaneous Provisions) Act 2002	Sections 6, 8, 9, 10 and 14

".

SCHEDULE 2

141. In page 49, Part 2, between lines 36 and 37, the following inserted:

1	Section 4(2)	(*a*) In paragraph (*c*), delete "and". (*b*) the following inserted after paragraph (*c*): " (*ca*) to manage the Affordable Dwellings Fund established under *Part 5* of the *Housing (Miscellaneous Provisions) Act 2009* in accordance with that Act and any regulations made by the Minister under that Act, (*cb*) to advance moneys from the said Affordable Dwellings Fund to housing authorities for any purpose authorised by or under *section 86#* of the *Housing (Miscellaneous Provisions) Act 2009*, and".
2	Section 5	(*a*) In paragraph (*c*), delete "or". (*b*) In paragraph (*d*), substitute " body, or" for "body.". (*c*) the following inserted after paragraph (*d*): "(*e*) a housing authority from the Affordable Dwellings Fund established under *Part 5#* of the *Housing (Miscellaneous Provisions) Act 2009* subject to and in accordance with that Act and any regulations made by the Minister under that Act, for any purpose authorised by or under *section 86#* of that Act".

".

[*SCHEDULE 2*]

[*#These are references to the new sections inserted by amendments No. 131 and 115.]*

142. In page 50, between lines 5 and 6, the following inserted:

"

1	Section 12	(*a*) In subsection (1), insert "and (8)" after "subsection (2)". (*b*) the following inserted after subsection (7): "(8) (*a*) This section shall not apply to apartments in a designated apartment complex. (*b*) For the purposes of *paragraph (a)*, "apartments" and "designated apartment complex" have the same meaning as they have in *section 42#* of the *Housing (Miscellaneous Provisions) Act 2009*.

".

[*#This is a reference to the new section inserted by amendment No. 87.*]

143. In page 50, Part 4,lines 19 to 24, paragraphs (*a*) and (*b*) deleted.

144. In page 50, Part 4, lines 33 and 34, paragraph (*a*) deleted and the following substituted:

"(*a*) In subsection (1)—

(i) delete ", works and services appurtenant thereto and enjoyed therewith", and

(ii) after "let" to insert "or available for letting".".

145. In page 50, Part 4, between lines 37 and 38, the following new paragraphs inserted:

" " (*d*) In subsection (7):

(i) in paragraph (*g*) substitute "food;" for "food.", and

(ii) the following inserted after paragraph (*g*):

"(*h*) fire safety.".".

146. In page 52, Part 4, line 41, after "withdraw", ", cancel" inserted.

147. In page 55, Part 4, line 26, after "*18*", "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

148. In page 55, Part 4, line 39, after "*18*", "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

149. In page 56, Part 4, line 5, after "*18*", "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

150. In page 56, Part 4, line 18, after "*18*", "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

151. In page 56, Part 4, line 29, after "*18*" "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

152. In page 56, Part 4, line 38, after "*18*" "and *Chapter 6#*" inserted.

[#*This is a reference to the new section inserted by amendment No. 47.*]

153. In page 58, Part 5, lines 22 to 46, paragraph (*b*) deleted and the following substituted:

"(*b*) the following substituted for subsection (2):

"(2) Notwithstanding anything contained in—

(*a*) *Part 3* of the *Housing (Miscellaneous Provisions) Act 2009* or an incremental purchase arrangement under the said *Part 3*,

(*b*) *Part 4#* of the said Act, or

(*c*) *Part 5#* of the said Act or an affordable dwelling purchase arrangement under the said *Part 5#*, or

(*d*) section 90 of the Housing Act 1966 (inserted by section 26 of the Housing (Miscellaneous Provisions) Act 1992) or a purchase scheme under the said section 90,

a housing authority may refuse to sell a dwelling to—

(i) in the case of an incremental purchase arrangement, an eligible household (within the meaning of *Part 3* of the *Housing (Miscellaneous Provisions) Act 2009*),

(ii) in the case of *Part 4*# of the said Act, a tenant,

(iii) in the case of an affordable dwelling purchase arrangement, an eligible household (within the meaning of *Part 5*# of the said Act), or

(iv) in the case of section 90 of the Housing Act 1966, a tenant,

where the authority considers that the said tenant or the said eligible household or any member of the eligible household or of the tenant's household, as the case may be, is or has been engaged in anti-social behaviour or that a sale to that eligible household or tenant would not be in the interest of good estate management.".".

[#*These are references to the new sections inserted by amendments No. 87 and 115.]*

154. In page 60, lines 19 to 53 deleted and in page 61, lines 1 to 15 deleted and the following substituted for Part 7:

"PART 7

AMENDMENTS TO PLANNING AND DEVELOPMENT ACT 2000

Item	Provision affected	Amendment
(1)	(2)	(3)
1	Section 93	(*a*) the following substituted for subsection (1): "(1) In this Part— 'housing strategy' means a strategy included in a development plan in accordance with section 94(1); 'market value', in relation to a house, means the price which the unencumbered fee simple of the house would fetch if sold on the open market; 'mortgage' means a loan for the purchase of a house secured by mortgage in an amount not exceeding 90 per cent of the price of the house. (*b*) Delete subsections (2) and (3).

Item	Provision affected	Amendment
2	Section 94	(*a*) In subsection (2), substitute "summary of social housing assessments prepared under section 21(*a*) of the *Housing (Miscellaneous Provisions) Act 2009*" for "housing assessment or assessments made under section 9 of the Housing Act, 1988, (*b*) In subsection 4— (i) in paragraph (*a*), the following substituted for subparagraphs (i) and (ii): "(i) housing for the purposes of the provision of social housing support within the meaning of the *Housing (Miscellaneous Provisions) Act 2009*, and (ii) housing for eligible households (within the meaning of *section 70#* of the *Housing (Miscellaneous Provisions) Act 2009*,", and (ii) delete paragraph (*b*), (*c*) In subsection (5)(*a*), the following inserted after subparagraph (v): "(va) the number of households who have applied to purchase an affordable dwelling under an affordable dwelling purchase arrangement pursuant to *Part 5#* of the *Housing (Miscellaneous Provisions) Act 2009*;".

[*SCHEDULE 2*]

Item	Provision affected	Amendment
3	Section 96	(*a*) the following substituted for subsection (12) — "(12) Any amount referred to in subsection (11) and any amount paid to a planning authority in accordance with subsection (3)(*b*)(vi), (vii) or (viii) shall be accounted for in a separate account and shall only be applied as capital for its functions in relation to the provision of housing under the *Housing Acts 1966 to 2009*, including the making of payments under *section 86#* of the *Housing (Miscellaneous Provisions) Act 2009* into the Affordable Dwellings Fund established under *Part 5#* of that Act.". (*b*) In subsection (13)(*a*), substitute "required for households assessed under *section 20* of the *Housing (Miscellaneous Provisions) Act 2009* as being qualified for social housing support" for "for persons referred to in section 9(2) of the Housing Act, 1988".

".

[#*These are references to the new sections inserted by amendments No. 115 and 131.]*

155. In page 61, lines 16 to 60, in page 62, lines 1 to 57, and in page 63, lines 1 to 52, Part 8 deleted.

156. In page 64, lines 11 to 51, and in page 65, lines 1 to 21, Part 8 deleted.

[**Note: A printer error has resulted in incorrect line references in page 65 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 65 of the Bill.*]

SCHEDULE 3

157. In page 66, between lines 8 and 9, the following inew schedule inserted:

"*Section 65.*

SCHEDULE 4

A property services agreement shall include—

1. The name and address of the specified body

2. The name and registered office of the management company

3. Details of the designated apartment complex the subject matter of the agreement

[*SCHEDULE 3*]

4. Particulars of the services to be provided by the specified body under the agreement, including property management services and the provision of staff

5. The amount of the fee or fees payable by the management company under the agreement and the circumstances in which the fee or fees become payable the procedures relating to collection the fee or fees, including procedures for the collection of any such fee in the case of non-payment by the management company

6. The period during which the agreement is to have effect

7. The length of notice to be given in the event of termination of the agreement by the housing authority or management company

8. Details of professional indemnity insurance of the specified body

9. Details of the records to be kept by the specified body in respect of the provision of the services under the agreement

10. Complaints and redress procedures put in place by the specified body

11. A timetable for delivery of services under the agreement

12. Particulars of out-of-hours services for emergencies

13. Reporting obligations of the specified body to the management company.”.