



DÁIL ÉIREANN

AN BILLE UM FHORBAIRTÍ ILAONAD 2009 MULTI-UNIT DEVELOPMENTS BILL 2009

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM FHORBAIRTÍ ILAONAD 2009 —AN TUARASCÁIL

MULTI-UNIT DEVELOPMENTS BILL 2009 —REPORT

Leasuithe Amendments

1. In page 4, between lines 13 and 14, to insert the following:

“ “complete” in relation to a development means complete to the agreed satisfaction of the developer and the owners’ management company and the planning authority;”.

—Pat Rabbitte.

2. In page 5, between lines 15 and 16, to insert the following:

“ “satisfactory completion” means a development is finished and complete in accordance with the satisfaction of the developer, the owners’ management company and the planning authority;”.

—David Stanton.

3. In page 5, to delete line 16.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

4. In page 5, line 37, to delete “shall be considered” and substitute “shall be regarded”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

5. In page 5, after line 47, to insert the following:

“(6) Subject to any order made by a court pursuant to *section 21*, nothing in this Act relating to—

(a) the obligation to transfer the ownership of the common areas of a multi-unit development or a relevant part of such common areas to the owners’ management company concerned,

(b) the obligation to establish an owners’ management company as respects that development, or

(c) the structure or conduct of the affairs of an owners’ management company,

shall be construed as preventing compliance with that obligation by the establishment of different owners’ management companies in respect of different parts of the multi-unit development or by the transfer to such companies of the ownership of such parts of the development.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

6. In page 6, lines 3 and 4, to delete “comprising 2 or more units but less than 5 units” and substitute the following:

“comprising 2 or more residential units but less than 5 residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

7. In page 6, to delete lines 5 to 10 and substitute the following:

“(2) Where—

(a) all the units in a multi-unit development are residential units, and

(b) the structure, or that part of the structure, in which the residential units are situate, does not form part, and was never intended to form part, of the common areas of the development,

the provisions of *Schedule 2* shall apply as respects the common areas of the development.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

8. In page 6, to delete line 13 and substitute the following:

“(a) residential units in the development, and”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

9. In page 6, lines 15 and 16, to delete “by such commercial units and units” and substitute “by such commercial units and residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

10. In page 6, line 20, to delete “be considered” and substitute “be regarded”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

11. In page 6, line 34, to delete “of the development” and substitute “of the mixed use multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

12. In page 6, line 44, to delete “a unit in a multi-unit development” and substitute “a residential unit in a multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

13. In page 7, lines 5 and 6, to delete “in the unit being transferred” and substitute “in the residential unit being transferred”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

14. In page 7, line 8, to delete “and” and substitute the following:

“(c) a certificate from a suitably qualified person that the relevant parts of the multi-unit development have been constructed in compliance with the fire safety certificate concerned issued pursuant to the Building Control Acts 1990 and 2007 has been furnished by the person to whom *subsection (2)(b)* refers to the owners’ management company, and”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

15. In page 7, line 16, to delete “requirements, and” and substitute “requirements,”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

16. In page 7, line 18, to delete “concerned.” and substitute the following:

“concerned,

(iii) the release to the developer of monies held by the owners’ management company where the contract provides for monies to be so held by the owners’ management company pending completion of the common areas concerned, and

(iv) the process for resolving disputes between the parties to the contract as respects the completion of the development.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

17. In page 7, line 18, after “concerned” to insert the following:

“and

(d) the purchaser has supplied his or her residential address to the owners’ management company and has undertaken to notify the company of any future changes in address”.

—Pat Rabbitte.

18. In page 7, between lines 18 and 19, to insert the following:

“(2) On closing of a unit sale prior to completion of the development, the developer shall pay 5 per cent of the purchase prices to the owners’ management company which shall hold such sum in trust for the developer until the development is completed.”.

—Pat Rabbitte.

19. In page 7, between lines 18 and 19, to insert the following:

“(2) On closing of a unit sale prior to completion of the development, the developer should pay 5 per cent of the purchase price to the owners management company which should hold this sum in trust until the development is satisfactorily completed.”.

—David Stanton.

20. In page 7, line 26, to delete “common areas of a multi-unit development” and substitute the following:

“relevant parts of the common areas of a multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

21. In page 7, line 29, to delete “of the said lands” and substitute “of the land concerned”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

22. In page 7, to delete lines 30 to 33 and substitute the following:

“(b) to transfer all rights necessary to enable the owner of each residential unit to enjoy the quiet and peaceful occupation of the residential unit of which he or she is the owner, and”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

23. In page 7, line 36, to delete “of the units” and substitute “of the residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

24. In page 7, line 39, to delete “the unit owner enjoys” and substitute the following:

“each owner of a residential unit in the development concerned enjoys”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

25. In page 8, line 14, to delete “to the units” and substitute “to the residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

26. In page 8, between lines 17 and 18, to insert the following:

“(8) In this section—

“suitably qualified person” means a person who is a member of a class or classes of persons prescribed by the Minister for the purposes of this section;

“prescribed” means prescribed by regulations made by the Minister having consulted the Minister for the Environment, Heritage and Local Government.

(9) Regulations made by the Minister under this section may prescribe a class or classes of persons who in the view of the Minister, having considered the qualifications, training, and expertise of such class or classes of persons by reference to the functions to be performed by members of such class pursuant to this section, are suitably qualified.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

27. In page 8, between lines 17 and 18, to insert the following:

“Second-hand units. 4.—No person may sell a unit unless the purchaser has supplied his or her residential address to the owners’ management company and has undertaken that if he or she resides elsewhere than at the unit he or she shall notify the company of any future changes in address until he or she disposes of any interest in the unit or resides in the unit.”.

—Pat Rabbitte.

28. In page 8, line 19, to delete “of a unit” and substitute “of a residential unit”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

29. In page 8, line 22, to delete “relating to the units” and substitute “relating to the residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

30. In page 8, line 31, to delete “to the units” and substitute “to the residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

31. In page 8, line 42, to delete “the lands referred to in *section 3(1)(b)*.” and substitute the following:

“the lands referred to in *section 3(1)(b)*, without the reservation of any beneficial interest.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

32. In page 8, between lines 42 and 43, to insert the following:

“(2) For the purposes of this section, a multi-unit development shall be regarded as being substantially completed if the sales of not less than 80 per cent of the residential units in the development have been closed.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

33. In page 8, line 45, to delete “relating to a unit in the development” and substitute the following:

“relating to a residential unit in the multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

34. In page 8, line 47, to delete “of a unit” and substitute “of a residential unit”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

35. In page 9, line 8, to delete “2007” and substitute the following:

“2007, and

(c) completing a snag list prepared by an Inspector of the relevant Local Authority”.

—David Stanton.

36. In page 9, line 9, to delete “of a unit” and substitute “of a residential unit”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

37. In page 9, line 12, to delete “ownership of the unit” and substitute “ownership of that unit”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

38. In page 9, line 28, to delete “of the unit” and substitute “of the residential unit”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

39. In page 9, line 33, to delete “A unit owner” and substitute the following:

“A unit owner (whether the owner of a residential unit or a commercial unit)”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

40. In page 10, line 21, to delete “to the owners of the units” and substitute “to the unit owners”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

41. In page 10, line 24, to delete “owners of the units” and substitute “unit owners”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

42. In page 11, lines 17 and 18, to delete “in the common areas and reversion in the units” and substitute the following:

“in the relevant parts of the common areas and the reversion in the residential units”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

43. In page 11, line 21, after “the” to insert “unencumbered”.

—Pat Rabbitte.

44. In page 11, line 27, to delete “in the units” and substitute “in the residential units”.

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

45. In page 11, to delete lines 29 to 34.

—Pat Rabbitte.

46. In page 11, line 32, to delete “in any unit” and substitute “in any residential unit”.

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

47. In page 11, between lines 34 and 35, to insert the following:

“Procedures on completion of development.

12.—(1) When the developer has completed a development in accordance with its statutory and contractual duties including quality assurance provisions, the developer shall serve notice of completion on the owners’ management company, on the planning authority, on the building control authority and on the other parties scheduled in *section 21(1)(a), (b) and (c)* stating that the development is complete. The notice when served shall be accompanied by the list of addressees on whom the notice is being served and, when served on the owners’ management company, shall be accompanied also by a copy of the documentation listed in *Schedule 3*. The notice of completion shall state the date on which the developer intends to complete transfer of the beneficial interest in the common areas to the owners’ management company. That intended transfer date shall be not less than five weeks after the date of service (or the latest of the dates of service) of the notice of completion.

(2) If a party listed in *section 21(1)(a), (b) or (c)* objects to completion of the transfer to the owners’ management company, and/or to payment by the owners’ management company to the developer of all of the sums held in trust for the developer, that party shall serve an objection notice on the developer within 16 days of the date of service of the notice of completion. Such objection notice shall set out the grounds for objection to the transfer, which shall be confined to grounds of—

- (a) non-compliance with statutory and contractual requirements,
- (b) incomplete or defective work in the common areas or in a unit,
- (c) any defect in the *Schedule 3* documentation,
- (d) any grounds of good estate management; e.g. in the configuration or size of the common parts which the developer proposes to transfer,
- (e) any notice or other evidence from a local authority or statutory undertaker of incomplete or defective work, or of a refusal to take in charge ducts and conduits, paved or landscaped areas, or
- (f) any other matter, unforeseen when any agreement for lease or sale of a unit was signed, which inhibits good estate management.

(3) On receipt of an objection notice under the previous sub-section, the developer shall consider the grounds set down therein and shall, within five weeks period from the date of service on him, serve a revised notice of completion on the owners’ management company, on the planning authority, on the building control authority and on the other parties referred to in *section 21(1)(a), (b) and (c)* setting down:

- (a) a revised date on which the developer intends to complete transfer of the beneficial interest in the common areas to the owners’ management company; which revised transfer date shall be not less than five weeks after the date of service (or the latest of the dates of service) of the revised notice of completion;
- (b) a note on each of the grounds or elements of each objection notice which the developer intends to remedy, outlining the intended measures for compliance, completion, remedial works, rectification etc.; and
- (c) a note on the remaining grounds or elements of each objection notice stating why the developer does not consider those grounds to be valid, fair or reasonable.

(4) A party listed in *section 21(1)(a), (b) or (c)* may serve a revised objection notice on the developer within 16 days of the date of service of the revised notice of completion; in accordance with *subsection (2)*.

(5) In the event that the developer has not yet served notice of completion of common areas or of a particular part of common areas in accordance with *subsection (2)*, and a party listed in *section 21(1)(a), (b) or (c)* considers that the developer has completed a development (or the particular part) and is unreasonably delaying transfer in accordance with its statutory and contractual duties including quality assurance provisions, that party may serve notice of completion (called an “owner’s notice of completion”) on the developer, the owners’ management company, on the planning authority, on the building control authority and on the other parties scheduled in *section 21(1)(a), (b) and (c)* stating that it considers that the development is complete. The owner’s notice of completion when served shall be accompanied by the list of addressees on whom the notice is being served and shall have the same effect as a notice of the developer under *subsection (2)*, and the obligation to provide a copy of the documentation listed in *Schedule 3* shall be on the developer who shall fulfil that obligation within five weeks of service. The owner’s notice of completion shall state the date on which it intends the developer to complete transfer of the beneficial interest in the common areas to the owners’ management company; and it may be accompanied by a list of measures required to be taken by the developer for compliance, completion, remedial works, rectification etc. as set down in *subsection (2)*. The intended transfer date stated in the owner’s notice of completion shall be not less than five weeks after the date of service (or the latest of the dates of service) of the notice of completion.

(6) If the developer objects to the owners’ notice of completion, and to completion of the transfer to the owners’ management company, the developer shall serve an objection notice (“developer’s objection notice”) on all the parties scheduled in *section 21(1)(a), (b) and (c)* within 16 days of the date of service of the notice of completion. Such developer’s objection notice be accompanied by a copy of the *Schedule 3* documentation and shall set out the grounds for objection to the notice, which shall be confined to grounds of—

- (a) the provisions of any agreement for lease or sale of a unit,
- (b) good estate management,
- (c) the time reasonably required (which shall be stated) to achieve compliance with statutory and contractual requirements, to complete work (or rectify defective work) in the common areas or in a unit, or to deal with any notice or other evidence from a local authority or statutory undertaker, or with a refusal to take in charge ducts and conduits, paved or landscaped areas.

The developer’s objection notice shall also state the date by which the developer intends to complete the transfer to the owners’ management company of the common areas referred to in the owners’ notice of completion.

(7) The owners’ notice of completion and the developer’s objection notice shall have the like effect as a notice of completion under *subsection (1)*, and the procedure for a party listed in *section 21(1)(a), (b) or (c)* to set down grounds for objection shall *mutatis mutandis* be as provided for in this section.

(8) In the event of a dispute arising in relation to completion of the development, following issue of one or more of the notices referred to in this section, such dispute shall be resolved in accordance with dispute resolution provisions to be set down in Regulations to be made by the Minister.”

—Pat Rabbitte.

48. In page 11, between lines 34 and 35, to insert the following:

“Procedures on transfer.

12.—(1) Where a development is substantially completed, the relevant local authority, or an independent party agreed by both the developer and the owners’ management company, may be requested to carry out a snag list to identify unfinished works and to ensure that these are done prior to the development being declared to be complete.

(2) If a developer fails to carry out the snag list within 3 months after the determination of the snag list then the developer shall pay to the owners’ management company a sum equal in value to the cost of completing the development to enable the snag list to be completed.

(3) To ensure compliance with this section, any planning permission for a multi-unit development after the commencement of this section shall include as a condition that the developer enter into a bond sufficient to ensure such compliance.”

—Pat Rabbitte.

49. In page 11, line 37, to delete “of the units” and substitute “of the residential units”.

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

50. In page 11, lines 39 and 40, to delete “in the common areas and reversion in the units” and substitute the following:

“in the common areas concerned and the reversion in the residential units”.

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

51. In page 11, line 45, after “the” where it secondly occurs to insert “unencumbered”.

—Pat Rabbitte.

52. In page 11, line 48, to delete “in the common areas” and substitute “in the common areas concerned”.

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

53. In page 11, line 52, to delete “of the common areas” and substitute “of the common areas concerned”.

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

54. In page 12, line 4, to delete “in any unit” and substitute “in any residential unit”.

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

55. In page 12, line 14, to delete “in the development” and substitute “in the multi-unit development”.

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

56. In page 12, between lines 47 and 48, to insert the following:

“(5) Functions exercised under this section shall have due regard to the need to promote fairness to the interests of residents of different parts of a development.”

—Pat Rabbitte.

57. In page 12, line 51, to delete “to each unit” and substitute “to each residential unit”.

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

58. In page 12, line 51, to delete “unit” where it firstly occurs and substitute the following:

“owner of a unit or units (and for this purpose, companies that are connected shall be considered a single owner), subject to a maximum of one vote per unit (to be exercised jointly by multiple owners of a unit)”.

—Pat Rabbitte.

- 59.** In page 13, line 2, to delete “and that no other person has such a vote.” and substitute the following:

“and that no other person has voting rights in respect of such determination.”.

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

- 60.** In page 13, between lines 2 and 3, to insert the following:

“(2) Where an owner has agreed with the OMC to pay charges by standing order or direct debit, and is not in default of that arrangement, he or she shall not forfeit voting rights under this section, but otherwise an owner in default will not be considered to have voting rights.”.

—Pat Rabbitte.

- 61.** In page 13, between lines 2 and 3, to insert the following:

“(2) For the avoidance of doubt, for the purpose of *subsection (1)* developers who retain ownership of multiple units shall only be entitled to one vote in total.”.

—David Stanton.

- 62.** In page 13, line 7, to delete “This section applies to” and substitute the following:

“This section applies to owners’ management companies of”.

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

- 63.** In page 13, line 8, to delete “of a unit” and substitute “of a residential unit”.

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

- 64.** In page 13, between lines 11 and 12, to insert the following:

“Structure of certain owners’ management companies (existing developments).”

15.—(1) This section applies to owners’ management companies of multi-unit developments to which *section 14* does not apply and which are not mixed use multi-unit developments.

(2) Subject to *subsections (3) and (4)*, the voting rights of members in the owners’ management company which relates to a multi-unit development to which this section applies shall be structured in such a manner that in the determination of any matter by the members of the company, one vote shall attach to each residential unit in the multi-unit development to which the owners’ management company relates, and that no other person has voting rights in respect of such determination.

(3) Where the voting rights of members of an owners’ management company to which this section applies are allocated on a basis other than that specified in *subsection (2)* a person who, but for this section, would be entitled to exercise such voting rights, shall not exercise such rights unless that person has applied for and has been granted an authorisation to exercise those rights by the Circuit Court which application shall be made under *section 21*.

(4) The Court shall not make an order authorising the exercise of voting rights referred to in *subsection (3)* unless it is satisfied—

(a) that the person concerned has an essential economic interest in the development concerned or a part of the development concerned (other than as the owner of a residential unit in the development) and that in order to adequately protect such interest it is necessary to authorise that person to exercise such voting rights, or

(b) that, for any other reason, it is necessary in the interests of fairness and justice to authorise that person to exercise such voting rights.”

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

65. In page 13, between lines 11 and 12, to insert the following:

“Life Directors and long term directors of owners’ management companies.

16.—(1) A person shall not be appointed as a director of an owners’ management company after the coming into operation of this section if such appointment is—

(a) for life, or

(b) for a term greater than 3 years.

(2) A person who, on the coming into operation of this section, stands appointed as a director of an owners’ management company, and the appointment is—

(a) for life, or

(b) for a term greater than 3 years,

shall be deemed to vacate that office—

(i) in the case of an appointment for life on the day which is 3 years after the coming into operation of this section and

(ii) in the case of an appointment referred to in *paragraph (b)* on the day of the expiry of the term concerned or the day which is 3 years after the coming into operation of this section whichever is the earlier.

(3) Subject to *subsection (1)*, nothing in *subsection (2)* shall prevent the appointment or election of a person to whom *subsection (2)* applies as a director of an owners’ management company at the annual general meeting of the owners’ management company concerned unless this is prohibited by the articles of association or other governing document of the company.”

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

66. In page 13, to delete lines 23 to 25 and substitute the following:

“(c) where the owners’ management company is required to establish and maintain a sinking fund—

(i) a statement of the funds standing to the credit of the sinking fund, and

(ii) details of the amount of the annual contribution to the fund and the basis on which such contribution is calculated;”

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

67. In page 14, line 23, to delete “of the development” and substitute “of the units in the development”.

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

68. In page 14, lines 31 and 32, to delete all words from and including “agreed” in line 31 down to and including “members)” in line 32 and substitute “agreed in writing by 75 per cent of the members)”.

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

69. In page 15, line 7, to delete “attending and entitled to vote” and substitute “present and voting”.

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

70. In page 15, to delete lines 21 to 24, and substitute the following:

“unless such expenditure is approved in writing by 75 per cent of the members of the owners’ management company concerned.”

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

71. In page 15, line 41, to delete “the owners of units” and substitute “unit owners”.

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

72. In page 16, line 8, to delete “be considered” and substitute “be regarded”.

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

73. In page 16, lines 10 and 11, to delete all words from and including “as” in line 10 down to and including “development.” in line 11 and substitute the following:

“as and from the day on which the first sale of a residential unit in the relevant part of the development is closed.”

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

74. In page 16, line 17, after “owners” to insert the following:

“and calculated by a professional quantity surveyor following consideration of the drawings, mechanical, electrical services and the obligations regarding services generally set down in the lease between the buyer and the developer”.

—David Stanton.

75. In page 16, between lines 29 and 30, to insert the following:

“(d) Owners living in traditional houses in mixed developments should pay a reduced service charge.”

—David Stanton.

76. In page 16, line 48, to delete “in this section” and substitute “in this Act”.

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

77. In page 17, line 7, to delete “be considered” and substitute “be regarded”.

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

78. In page 17, line 17, to delete “Each unit owner” and substitute “The owner of each unit”.

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

79. In page 17, line 23, to delete “be considered” and substitute “be regarded”.

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

80. In page 17, lines 25 and 26, to delete all words from and including “as” in line 25 down to and including “development.” in line 26 and substitute the following:

“as and from the day on which the first sale of a residential unit in the relevant part of the development is closed.”

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

81. In page 17, line 30, after “other” to insert “sufficient”.
—Pat Rabbitte.

82. In page 17, line 34, to delete “period of 3 years” and substitute “period of 1 year”.
—David Stanton.

83. In page 18, line 8, to delete “such charges” and substitute “contributions to the sinking fund”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

84. In page 18, line 10, to delete “such charges” and substitute “such contributions”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

85. In page 18, lines 11 and 12, to delete “such charges” and substitute “such contributions”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

86. In page 18, between lines 16 and 17, to insert the following:
“(f) the calculation of the sinking fund shall be available to inspect on request by any member or by any person or body corporate who agrees a contract for sale in respect of a unit or units in the multi-unit development.”.
—David Stanton.

87. In page 18, between lines 16 and 17, to insert the following:

“Application of section 17 to certain developments.

18.—Where in relation to a multi-unit development to which *section 2(2)** applies a sinking fund stands established or an agreement exists between the unit owners, or by them with another person, to establish a sinking fund, the provisions of *section 17* (other than the requirement to establish a sinking fund) shall apply to such sinking fund.”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

[*Note: This is a reference to the subsection proposed to be inserted by amendment 7.]

88. In page 18, lines 20 and 21, to delete “*section 16 or 17*” and substitute “*section 16, 17, or 18**”.

[*Note: This is a reference to the section proposed to be inserted by amendment 87.]

89. In page 18, to delete lines 24 to 26 and substitute the following:

“(2) Where payment of charges under *section 16* and contributions under *section 17* or *18** are requested or collected together such charges and contributions may collectively be referred to as “owners’ management company annual charges”.”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the section proposed to be inserted by amendment 87.]

90. In page 18, lines 27 and 28, to delete all words from and including “Charges” in line 27 down to and including “*section 17,*” in line 28 and substitute the following:

“Charges under *section 16* and contributions under *section 17* or *18**.”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the section proposed to be inserted by amendment 87.]

91. In page 18, line 34, to delete “as respects the development” and substitute the following:

“as respects the development or part of the development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

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

“(3) A local authority shall prepare bye-laws setting out a set of options for provisions relating to common areas that may be included in house rules within its functional area. An owners’ management company may include in its house rules provisions from the options set out in the bye-laws. On their adoption, the house rules shall have the status of bye-laws and provisions made by the local authority for sanctions against owners who are in breach of the house rules may be applied.”.

—Pat Rabbitte.

93. In page 19, to delete lines 7 to 9 and substitute the following:

“(3) House rules made under *subsection (1)* shall be made in a manner consistent with—

(a) the objective of advancing the quiet and peaceful enjoyment of the property by the unit owners and the occupiers, and

(b) the objective of the fair and equitable balancing of the rights and obligations of the occupiers and the unit owners,

in the development or part of the development concerned.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

94. In page 19, line 12, to delete “in the development.” and substitute “in the part of the development concerned.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

95. In page 19, line 19, to delete “to each owner” and substitute “to each unit owner”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

96. In page 20, to delete line 4 and substitute the following:

“21.—(1) The Minister shall within six months of the commencement of this Act report to Dáil Éireann on the viability of merging the National Property Service Regulatory Authority and the Private Residential Tenancies Board into a new body which would have the combined functions of these bodies. In addition to such functions, the new body would have the function of regulation of Owners’ Management Companies and mediation and dispute resolution services.

(2) A person specified in *section 22* may make, in respect of”.

—David Stanton.

97. In page 20, lines 5 to 7, to delete all words from and including “a” in line 5 down to and including “law.” in line 7 and substitute the following:

“a multi-unit development, an application to the court—

(a) for an order under this section to enforce any rights conferred, or obligation imposed, by this Act or any rule of law, or

(b) for an order relating to any matter to which reference to making an application under this section is made in this Act.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

98. In page 20, line 12, to delete “Where the court is satisfied” and substitute the following:

“In a case to which *subsection (1)(a)** applies, where the court is satisfied”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the paragraph proposed to be inserted by an amendment 97.]

99. In page 20, between lines 16 and 17, to insert the following:

“(4) In a case to which *subsection (1)(a)** does not apply but *subsection (1)(b)** applies, the court may make such order as it considers just and equitable with a view to ensuring the effective operation of the owners’ management company concerned and the quiet and peaceful occupation of the common areas of the multi-unit development concerned by the owners and occupiers of the residential units in that development.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the paragraphs proposed to be inserted by amendment 97.]

100. In page 20, line 42, to delete “of a development” and substitute “of a multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

101. In page 21, between lines 32 and 33, to insert the following:

“(m) providing that house rules be lodged with the relevant local authority and giving the local authority power to annul house rules or any provision thereof if such rules interfere unreasonably with the rights of an owner of a unit.”.

—Pat Rabbitte.

102. In page 22, line 21, to delete “in the development” and substitute the following:

“in the relevant part of the multi-unit development”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

103. In page 22, line 23, to delete “such deed.” and substitute the following:

“such deed by the owners’ management company concerned.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

104. In page 23, line 39, to delete “The notes of the chairperson” and substitute the following:

“Subject to section 25, the notes of the chairperson”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

105. In page 24, line 13, to delete “thereto.” and substitute the following:

“thereto,

or

- (c) where the mediation conference did take place and no settlement has been entered into, a statement as to whether such outcome is substantially due to the conduct of one or more than one of the parties, and in that case specifying the identity of such party or parties.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

106. In page 24, to delete lines 17 to 22 and substitute the following:

“(3) At the conclusion of the hearing of an application under *section 21*, the court may—

- (a) having considered the report prepared under *subsection (1)*,
- (b) having heard submissions by or on behalf of the parties to the application, and
- (c) if satisfied that a party to the application—
- (i) failed to comply with a direction under *section 24(1)(a)*, or
- (ii) is a person specified pursuant to *subsection (1)(c)** and that the conduct of such person is substantially the cause of the failure to reach a settlement,”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the paragraph proposed to be inserted by amendment 105.]

107. In page 24, line 27, to delete “power” and substitute “right or power”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

108. In page 24, line 30, to delete “such other powers” and substitute “such other rights or powers”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

109. In page 25, line 18, to delete “with the consent of” and substitute “having consulted with”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

110. In page 25, line 30, to delete “in *Schedule 3*” and substitute the following:

“in *Schedule 3* relating to the development concerned”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

111. In page 26, to delete lines 1 to 5 and substitute the following:

“(2) This Act shall come into operation immediately on the passing of this Act.”.

—David Stanton.

112. In page 26, after line 5, to insert the following:

“Review of section 180 of the Planning and Development Act 2000.

32.—The Minister shall within six months of the commencement of this Act recommend to the Minister of Environment, Heritage and Local Government that a review of section 180 of the Planning and Development Act 2000 be conducted to determine whether legislative change is required to ensure public areas are sufficiently maintained. The extent of the area to be taken in charge by the Council should be already marked on a site layout drawing so that there is no confusion among parties.”.

—David Stanton.

113. In page 26, after line 5, to insert the following:

“Fire Safety
Compliance.

32.—(1) A Fire officer shall inspect the development to ensure fire safety compliance before the building is occupied.

(2) The developer shall be initially responsible for fire safety, until the development is handed over to the OMC.

(3) The owners’ management company shall then be responsible for fire safety and compliance with all relevant fire safety regulations.

(4) In this section “management body”, in relation to a multi-unit development, means—

(a) that company or unincorporated body—

(i) which is formed with the intention that its members should be the owners of the properties in the development, and

(ii) which manages all or some of the common areas of the development,
and

(b) any person who manages the common areas referred to in *paragraph (a)* at any time before the company or unincorporated body referred to in that paragraph starts to manage such common areas, including the developer, or his or her agent, of the multi-unit development.”.

—David Stanton.

114. In page 27, between lines 3 and 4, to insert the following:

“1. *Section 15** (Structure of certain owners’ management companies (existing developments)).

2. *Section 16*** (Life directors and long term directors of owners’ management companies).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the section proposed to be inserted by amendment 64.]

[**Note: This is a reference to the section proposed to be inserted by amendment 65.]

115. In page 27, between lines 7 and 8, to insert the following:

“4. *Section 18** (Application of *section 17* to certain developments).

5. *Section 18** (Owners’ management company annual charges).

6. *Section 19* (Recovery of charges and contributions).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the section proposed to be inserted by amendment 87.]

116. In page 27, after line 14, to insert the following:

“10. *Section 26* (Saver for existing jurisdiction).

11. *Section 27* (Restoration of certain companies to register).

12. *Section 28* (Transfer of benefit of guarantees and warranties).

13. *Section 29* (Restriction on entering into certain contracts).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

117. In page 28, between lines 3 and 4, to insert the following:

“1. *Section 4* — (Transfer of common areas in cases where *section 3* does not apply).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

118. In page 28, between lines 6 and 7, to insert the following:

“2. *Section 6* — (Owners’ management company to join in transfer to purchasers).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

119. In page 28, between lines 10 and 11, to insert the following:

“4. *Section 9* — (Consequences of transfer of common areas).

5. *Section 11* — (Determination of certain beneficial interests on completion of development).

6. *Section 12* — (Determination of certain beneficial interests in common areas in certain cases).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

120. In page 28, between lines 18 and 19, to insert the following:

“6. *Section 18** — (Application of *section 17* to certain developments).

7. *Section 18** — (Owners’ management company annual charges).

8. *Section 19* — (Recovery of charges and contributions).”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the section proposed to be inserted by amendment 87.]

121. In page 29, to delete lines 29 and 30 and substitute the following:

“10. Schedule of plant, equipment and fire protection systems specifying the expected useful life of such plant, equipment and systems.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

122. In page 29, line 40, to delete “as respects the development.” and substitute the following:

“as respects the development, except where such documentation has already been furnished to the owners’ management company or is already in the possession of the owners’ management company.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.