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**An Bille um Thithíocht Inacmhainne, 2021**  
**Affordable Housing Bill 2021**

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*Meabhrán Miniúcháin agus Airgeadais*  
*Explanatory and Financial Memorandum*

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**AN BILLE UM THITHÍOCHT INACMHAINNE, 2021**  
**AFFORDABLE HOUSING BILL 2021**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Introduction**

The purpose of the Bill is to provide the legislative and policy framework for a number of schemes aimed at making housing for purchase and rent more affordable for eligible households. These include the provision of affordable purchase housing by Local Authorities and the Land Development Agency, the introduction of a new Affordable Purchase Shared Equity scheme for the delivery of homes by private developers and the introduction of a new form of tenure in cost rental, which will initially see homes delivered by the Land Development Agency, Approved Housing Bodies and Local Authorities. The capital funding for these schemes will be voted by the Oireachtas in line with Government spending priorities. The assessment of delivery required under these schemes that will form part of the review of the National Development Plan and the ‘*Housing for All*’ plan.

The Bill comprises 45 Sections, arranged in 7 Parts.

**Provisions of the Bill**

**PART 1**

**PRELIMINARY AND GENERAL**

***Short title and commencement***

*Section 1* contains the standard provisions about short title and commencement.

***Interpretation***

*Section 2* is a standard provision to set out interpretations for terms used in the Bill.

***Regulations***

*Section 3* enables the making of orders and regulations by the Minister.

**PART 2**

**AFFORDABLE DWELLING PURCHASE ARRANGEMENTS**

***Interpretation***

*Section 4* provides definitions for terms used in Part 2.

### ***Application of Part 2***

*Section 5* sets out the three types of affordable dwellings to which Part 2 applies: affordable dwellings made available by a housing authority under section 6, affordable housing provided under a Part V agreement, and open market dwellings (as defined in section 7, i.e. dwellings for which the housing authority is providing financial assistance to eligible applicants to purchase).

### ***Provision of dwellings by housing authorities***

*Section 6* empowers housing authorities to ‘acquire, build or cause to be built, or otherwise provide or facilitate the provision of, dwellings’ for affordable dwelling purchase arrangements. It allows housing authorities to enter into arrangements with an Approved Housing Body, the Land Development Agency or a public-private partnership to make such dwellings available. It is also provided that the Minister may, with the consent of the Minister for Public Expenditure and Reform, pay grants out of moneys provided by the Oireachtas towards the cost of making such dwellings available.

### ***Direct sales agreement***

*Section 7* provides that a housing authority may enter into an arrangement with a person who has provided dwellings for the housing authority, either pursuant to section 6 (a developer, an Approved Housing Body, or a public private partnership) or to a Part V agreement, and that this person may sell the dwellings directly to eligible applicants nominated by the housing authority. This obviates the need for the housing authority to take the dwellings provided into its own ownership first and then sell them itself to the eligible applicants.

### ***Open market dwelling***

*Section 8* specifically empowers housing authorities to provide financial assistance to eligible purchasers to acquire dwellings in the State on the open market that are of a class prescribed by regulations.

### ***Notification of and applications for affordable dwelling purchase arrangements***

*Section 9* provides that, prior to the making of dwellings available for sale under Part 2 (or making financial assistance available pursuant to section 8), housing authorities must notify the public and invite applications. The form of the notification and the application may be prescribed by the Minister. The section also provides that where a person is (a) married, (b) in a civil partnership, or (c) has a partner (a person with whom he/she is in an intimate and committed relationship) with whom he/she intends to reside in the dwelling, he/she may not apply to purchase an affordable dwelling on his/her own, but must apply to purchase together with his/her spouse or partner. ‘Applicant’ or ‘eligible applicant’ referred to throughout Part 2 may therefore be one person or more than one person.

### ***Assessment of eligibility for affordable dwelling purchase arrangement***

*Section 10* sets out the conditions for purchaser eligibility: (i) applicants’ financial means to be within parameters to be prescribed in regulations by the Minister with the consent of the Minister for Public Expenditure and Reform, (ii) applicants to be first-time buyers, (iii) applicants not to own or have an interest in another dwelling, and (iv) applicants to be legally entitled to reside in the State.

Limited exceptions are provided to conditions (ii) and (iii), to provide as follows:

- a person applying had previously purchased/built a dwelling as part of a marriage/relationship that has now ended, and that person does not retain a beneficial interest in the dwelling;
- a person applying had previously purchased a dwelling, but sold it/ became divested of it as part of insolvency/bankruptcy proceedings;
- a person applying owns or owned a dwelling, but it is now too small/ unsuitable for current household needs (it is envisaged that in such a case the affordable dwelling purchase arrangement would require that the first dwelling be sold. Regulations and/or Guidelines for housing authorities will be issued on assessing whether a dwelling is too small/inadequate for the household's needs).

With regard to the parameters as to financial means, it is intended to provide in Regulations, which require the consent of the Minister for Public Expenditure and Reform, that the eligibility threshold will be that the applicant cannot secure a mortgage for 90% of the open market value of the dwelling being made available.

Therefore, eligibility is linked to the affordability constraints of individual households and the price of the dwellings available. Regulations may also require that other savings/assets are taken into account when considering eligibility.

***Scheme of priority for affordable dwelling purchase arrangements***

*Section 11* provides that housing authorities will be required to make a 'scheme of priority' in accordance with Regulations to be made by the Minister. This will decide the order of priority as between eligible applicants where there are more applicants than dwellings available. It is provided that current schemes of priority (adopted by housing authorities in 2018) will cease to have effect on the coming into effect of section 11. New schemes must be made prior to a housing authority first advertising the availability of dwellings for sale (or the availability of financial assistance to purchase open market dwellings). The making of a scheme of priority is a reserved function.

The section provides that the Minister may make Regulations as to the content of schemes of priority, including but not limited to:

- priority for applicants for whom the dwelling in question is suited to their needs, having regard to their household size/composition;
- priority for applicants where none of the persons applying currently own or have an interest in a dwelling;
- priority for applicants on the basis of having lived some length of time in the housing authority area;
- priority for applicants on the basis of the date/time of application.

'Household' is defined as a person living alone or two or more persons who, in the opinion of the housing authority, have a reasonable need to live together.

It is proposed that the Regulations will provide that 70% of the available affordable dwellings be allocated on the basis that (1) the dwelling is suited to applicants' needs, (2) none of the persons applying own or have an existing interest in a dwelling, (3) the applicant has lived for at least one year in the housing authority area, and (4) the time/date of application. It is proposed that the remaining 30% be allocated to eligible applicants for whom the dwelling is suited to their needs in accordance with a prioritisation to be drawn up by the housing authority itself, taking account of particular local priorities and circumstances.

### ***Affordable dwelling purchase arrangements***

*Section 12* specifically authorises a housing authority to enter an ‘affordable dwelling purchase arrangement’ with an eligible applicant and sets out what that arrangement must comprise. The section provides that, on the making of an ‘affordable dwelling contribution’ by the housing authority (a discount from market value in the case of the sale of a dwelling provided by housing authority, including through a Part V agreement, or a financial sum in the case of the purchase of an open market dwelling), the housing authority will be entitled to an equity share in the dwelling. This share, called the ‘affordable dwelling equity’, will be the proportion that the affordable dwelling contribution bears to the market value of the affordable dwelling on the date on which an enforceable agreement is made for its purchase by the eligible applicant. The market value for the purposes of this section will be as determined by the housing authority. This equity is expressed as a percentage in accordance with the following formula:

$$((\text{€A} \times 100)/\text{€B})\%$$

where—

- (a) €A is the affordable dwelling contribution, and
- (b) €B is the market value of the dwelling on the date on which an enforceable agreement is made for its purchase by the eligible applicant homeowner.

The affordable dwelling purchase arrangement will be a written agreement, the form of which may be prescribed by the Minister and it must contain certain terms. This would include the amount of affordable dwelling equity; provision for redemption payments by the homeowner; provision for realisation by the housing authority of its equity share on the occurrence of various events and covenants requiring that the dwelling not be sold without the consent of the housing authority and that it be occupied as the primary residence of the applicant. A ‘long stop date’ (anticipated to be c. 25/30 years) will be prescribed before which the housing authority may not seek to realise the affordable dwelling equity other than for breach of specific terms of the agreement. The agreement may also contain such additional covenants/terms as may be included in the prescribed form, e.g. requiring the homeowner to keep the affordable dwelling in good and substantial repair and to keep the dwelling insured.

### ***Registration of affordable dwelling purchase arrangements and agreements with financial institutions***

*Section 13* provides that an affordable dwelling purchase arrangement will be registrable in the Registry of Deeds as an act of the homeowner (this applies where the land is unregistered land) and as a burden on the folio (this applies where the land is registered land). It also provides that a housing authority may enter into an arrangement with banks/mortgage providers so that the mortgage provided to enable the applicant to purchase the dwelling will have a higher priority than the housing authority’s affordable dwelling equity (mortgage providers will require such an agreement in order to provide mortgages to purchase these properties). The housing authority may also enter such an agreement to enable the purchaser to obtain a top-up mortgage or switch mortgage providers, where this will not impair the capacity of the housing authority to realise the affordable dwelling equity.

### ***Valuation of affordable dwelling for certain purposes***

*Section 14* provides that the market value of an affordable dwelling at any relevant time is the price the dwelling would be likely to achieve in a sale on the open market, or, when it is being sold, the amount it actually does achieve. Any increase in value attributable to ‘material improvements’ carried out by the homeowner or any reduction in the value attributable

to lack of repair etc. by the homeowner is disregarded. Other than for the original fixing of market value by the housing authority (i.e. prior to the affordable dwelling purchase arrangements being made) the 'valuation mechanism' provided for allows the homeowner to refer the housing authority estimate of market value (including the value of improvements made by the homeowner) to an independent valuer from a panel of suitably qualified people nominated by the housing authority. The cost of the independent valuation is shared equally between the housing authority and the homeowner.

'Material improvement' for the purpose of this section means any addition or alteration to the dwelling, but does not include repairing, painting or decorating.

#### ***Redemption and realisation of the affordable dwelling equity***

*Section 15* provides that the affordable dwelling equity will be:

- redeemed by the homeowner by making redemption payments in accordance with section-16, or
- repaid out of the proceeds of a sale by the homeowner in accordance with section 17, or
- realised by the housing authority in accordance with sections 18 and 19.

These are the different means by which an affordable dwelling purchase arrangement will be brought to an end.

#### ***Redemption payments***

*Section 16* provides that the homeowner may, at any time after the making of the affordable dwelling purchase arrangement and prior to a sale in accordance with section 17 or 19, make payment(s) which redeem the affordable dwelling equity in whole or in part. This will be subject to any minimum payment the Minister may prescribe; it is proposed to prescribe in the region of €7,500-€10,000 as a minimum payment.

When the homeowner wishes to make a repayment he/she will give notice to the housing authority (in such form as may be prescribed) whereupon the 'valuation mechanism' is triggered. The housing authority will give its estimate of market value of the dwelling, including the value of any improvements made by the homeowner, which the homeowner may refer to an independent valuer (see section 14). Following the fixing of the market value, the homeowner has three months to make a payment. When the payment is made, the affordable dwelling equity is reduced accordingly and this is notified to the homeowner. The amount the affordable dwelling equity is reduced by is the percentage that the redemption payment comprises of current market value. For example, where the affordable dwelling equity was 20%, the current market value is €320,000 and the redemption payment made is €10,000, i.e. 3.125% of €320,000, the new affordable dwelling equity will be (20 - 3.125)%, i.e. 16.875%.

#### ***Sale of affordable dwelling prior to redemption of affordable dwelling equity***

*Section 17* deals with the sale of the affordable dwelling by the homeowner (either before or after the long stop date). This requires the consent of the housing authority, which may not be unreasonably withheld. The homeowner must request consent to sell, stating the minimum price for which he/she will sell, and the housing authority will give consent to sell subject to a stated minimum, or refuse consent. Prior to the completion of any sale, the current market value is fixed in accordance with the valuation mechanism. It is agreed between the housing authority and the homeowner

(i.e. the agreed sale price subject to any adjustments in respect of increases/decreases in value attributable to the homeowner), and the monetary value of the affordable dwelling equity is calculated (the relevant percentage of the market value as fixed). The housing authority will only discharge/cancel the affordable dwelling purchase arrangement as a burden on the dwelling after the homeowner has paid to the housing authority, from the proceeds of the sale, the amount representing the monetary value of the affordable dwelling equity.

This section also provides that if the dwelling is being sold by a mortgagee having rights in priority to the rights of the housing authority, the housing authority will be the person entitled (pursuant to section 107(2) of the Conveyancing Act) to receive the residue of the proceeds of sale after discharge of the mortgage. In such a case the housing authority will apply the residue towards the discharge of the affordable dwelling equity and the remainder will be held by the housing authority 'upon the trusts provided for in section 107(3) of the Conveyancing Act and distributed accordingly'. Where the amount received by the housing authority in this situation is insufficient to discharge the affordable dwelling equity, the housing authority will be entitled to recover the balance from the homeowner as a simple contract debt.

#### ***Realisation event and realisation notice***

*Section 18* sets out the situations in which the housing authority is entitled to end the affordable dwelling purchase arrangement and realise its equity share. Under this section, the housing authority is entitled to demand the redemption of the affordable dwelling equity by the homeowner by serving a 'realisation notice'. It is entitled to do so on the occurrence of 'a realisation event' as specified in the affordable dwelling purchase arrangement (the Minister will prescribe the form of the affordable dwelling purchase arrangement) and on specific events as set out in this section. These events include:

- the homeowner fails to redeem the affordable dwelling equity by the long stop date;
- the original owner (or where there was more than one original owner, all of them) has died or become bankrupt;
- the affordable dwelling becomes subject to an order or process for compulsory purchase;
- the homeowner is in material breach of a covenant in the affordable dwelling purchase arrangement;
- the housing authority is satisfied that the homeowner wilfully misled it in respect of any material fact having regard to their eligibility or priority for an affordable dwelling purchase arrangement.

The realisation notice will inform the homeowner that after a specified period (which must be at least three months) the housing authority will be entitled to realise the affordable dwelling equity in accordance with section 19, unless the homeowner has first redeemed the affordable dwelling equity in full.

#### ***Realisation of affordable dwelling equity by housing authority***

*Section 19* deals with the powers of the housing authority to realise the affordable dwelling equity following the expiration of a realisation notice and where the affordable dwelling equity has not been redeemed by the homeowner. Principally, the section gives the housing authority the power to sell the dwelling in order to realise its equity and all powers reasonably necessary to effect such sale. The housing authority may demand and

take possession of the dwelling, giving not less than one month's notice, peaceably enter and take possession of the affordable dwelling, or apply to the Circuit Court for an order for possession of the dwelling. Where it takes possession of the dwelling, the housing authority is required to sell it within a reasonable period at the best price reasonably obtainable. Nothing in the section, however, will prejudice the rights of any mortgagee of the dwelling.

The section provides that, following the completion of the sale, the monetary value of the affordable dwelling will be calculated in accordance with the valuation mechanism and that the proceeds of sale will be applied in the following order:

- in discharge of prior encumbrances, if any, to which the sale was not made subject;
- in payment of all charges, costs and expenses properly incurred by the housing authority as incident to the sale or any attempted sale or otherwise;
- in discharge of the affordable housing equity and any costs and expenses properly incurred by the housing authority in any proceedings necessary to recover possession of the affordable dwelling.

Any residue of the money received by the housing authority will be held by the housing authority upon the trusts provided for in section 107(3) of the Conveyancing Act and distributed accordingly.

If the proceeds held are insufficient to discharge the amount due to the housing authority the balance is recoverable by the housing authority from the homeowner as a simple contract debt.

It might be noted that the homeowner has the right to redeem the affordable dwelling equity up to the actual point of sale of the dwelling by the housing authority (i.e. even after the expiration of the period specified in the realisation notice), but in a case where the housing authority has already incurred reasonable costs in attempting to sell the dwelling, the homeowner must, as a precondition to the discharge of the affordable dwelling equity, be responsible for the discharge of those reasonable costs (section 16(5)).

#### ***Accounting for certain moneys received by housing authority***

*Section 20* provides that moneys received by the housing authority in discharge of the affordable dwelling equity must be accounted for by the housing authority in a separate account and used to provide affordable dwellings under this Part or cost rental dwellings under Part 3.

#### ***Discharge for money payable under policy of insurance***

*Section 21* contains technical provisions related to the situation (which is not expected to arise, unless in highly unusual circumstances), where the housing authority would insure the affordable dwelling.

#### ***Relationship with other enactments***

*Section 22* contains technical provisions dealing with consequential relationships with other enactments, providing, for instance, that section 211(2) of the Planning and Development Act of 2000 and section 183 of the Local Government Act 2001 will not apply to the sale of a dwelling to an eligible applicant under an affordable dwelling purchase arrangements.

### ***Regulations***

*Section 23* provides that, in addition to the specific regulation making powers referred to in this Part, the Minister may prescribe the form of any notices, deeds and other documents arising under affordable dwelling purchase arrangements, and such other matters as the Minister considers necessary and appropriate for the purpose of enabling this Part to have full effect.

### ***Amendments of other Acts***

Sections 24 to 28 deal with consequential amendments to the Housing Finance Agency Act 1981, the Housing (Miscellaneous Provisions) Act 1997, the Planning and Development Act 2000, the Housing (Miscellaneous Provisions) Act 2009 and the Housing (Miscellaneous Provisions) Act 2014, respectively, relating to the definition of/references to affordable housing/dwellings in Part 5 of the Housing (Miscellaneous Provisions) Act 2009, which is repealed by section 45 of this Bill.

## **PART 3**

### **COST RENTAL DWELLINGS**

#### ***Interpretation (Part 3)***

*Section 29* is a standard provision providing the definitions which will apply to this Part.

#### ***Application for designation as cost rental dwelling***

*Section 30* provides for the owner of a dwelling to apply to the Minister to designate it as a cost rental dwelling. It gives the Minister the power to prescribe the format of such an application, including the allowable costs to be used when calculating the cost-covering rent. The application process includes two distinct periods: the ‘cost calculation period’ of at least 30 years, which is the length of time over which the owner models the costs to calculate the resulting starting rent, and the ‘minimum period’, which must be at least as long as the calculation period, but with no maximum length prescribed. This latter period defines the owner’s minimum commitment to let the dwellings in compliance with this legislation, and it must expire before an owner can request revocation of the cost rental designation under Section 39. It is intended that the receipt of any future State support for the delivery of cost rental homes, in the form of funding or land, will be conditional on the minimum period being significantly longer than the cost calculation period.

#### ***Designation as cost rental dwelling***

*Section 31* provides for how the Minister shall designate a dwelling as a cost rental dwelling, thereby approving and certifying an application made under Section 30. The Section sets out the process by which the Minister and the dwelling owner shall execute a legally binding designation, including a power for the Minister to prescribe the relevant documentation and the process by which the designation shall be sealed by the Minister. The designation process will include registration of the cost rental designation of a dwelling in the Registry of Deeds or the Land Registry, as appropriate. The Section also directs the Minister to keep a record of all designations.

#### ***Lettings of cost rental dwelling***

*Section 32* empowers the Minister to regulate the letting of designated cost rental dwellings. The Minister may prescribe eligibility requirements in respect of tenants and their households, along with the process all landlords must follow when advertising vacant dwellings and entering into tenancies. The Minister may prescribe the use of a lottery element where applications exceed vacancies, and may prescribe the form and content of

tenancy agreements for cost rental dwellings, including ‘mandatory terms’ for these contracts. This Section also clarifies that a landlord will have final discretion over entering into a tenancy agreement with any prospective tenants who meet the eligibility criteria prescribed by the Minister.

#### ***Application of Act of 2004***

*Section 33* provides that, with the exception of certain exclusions in this Section and Section 34, the general terms of the Residential Tenancies Act 2004 will apply to all tenancies in a cost rental dwelling. To this end, the Section clarifies that cost rental dwellings owned by public bodies, including Local Authorities, are encompassed within this provision, while cost rental dwellings owned or let by Approved Housing Bodies are not to be regulated by the specific elements of the Residential Tenancies Act that govern AHB social housing.

This Section provides that, in the case of a Part 4 tenancy in a cost rental dwelling, a landlord cannot terminate the tenancy on certain grounds that are generally permitted in the private rental sector, including the sale of the property. In order to uphold the tenant and household eligibility criteria, this Section prohibits and voids any attempts to sub-let a cost rental dwelling or to assign the entire interest of the tenancy to a third party, and removes the right of a licensee of the tenant to be added to a Part 4 tenancy. This Section does empower the Minister, however, to prescribe processes by which, with the consent of the landlord, additional tenants may be added to existing tenancies, and one or more, but not all of the existing tenants may be removed or replaced.

#### ***Setting and review of rent in cost rental tenancy***

*Section 34* provides for the setting and review of rents in cost rental dwelling. To this end, Part 3 of the Residential Tenancies Act 2004 is entirely disapplied in favour of the specific provisions of this Section. As a necessary consequence, a Table to this Section sets out how provisions from other elsewhere in the Residential Tenancies Act 2004 should be applied in the case of a cost rental dwelling. This Section also empowers the Minister to prescribe ways to calculate rents over the entire time a dwelling is subject to this legislation. The rent on the date of the cost rental designation is the ‘initial maximum rent’ recorded in the designation, but the Minister will prescribe formulae for calculating rents at the beginning of new tenancies and when changing a rent during a tenancy through a rent review. These rent calculations will take account of any increase in the Harmonised Index of Consumer Prices, or an alternative index that the Minister may prescribe, during the intervening period. The rents calculated in this way are upper limits, giving landlords the option to charge lower rents as circumstances allow.

Rent reviews cannot take place more than once every twelve months, or within the first twelve months of a tenancy. Any increase of rent through this review process may only take effect on a fixed date, which by default is the anniversary of the start of the tenancy. A landlord can only initiate a rent review within a certain window of time, from two weeks before this review date to four weeks after it. This Section also empowers the Minister to prescribe the form of the ‘rent review notice’ with which tenants must be informed of any change to their rent, and provides that disputes about rents may be referred, just as in the private rental sector, to the judgement of the Residential Tenancies Board.

### ***Housing Assistance Payment***

*Section 35* provides that Housing Assistance Payment shall not be payable in respect of a cost rental dwelling, unless a member of the household has been a tenant of that cost rental dwelling for a continuous period of more than six months. This six-month rule aims to facilitate the targeting of cost rental dwellings at households above the social housing income limits, but also to take account of potential changes in circumstances that may reduce or remove the ability of a household to pay a rent set under the provisions of Section 34. This Section seeks to balance the need for the cost rental model to be generally self-financing with a desire to make cost rental a secure long-term accommodation option. The six-month rule for HAP also aligns with the six-month point at which a tenant gains statutory Part 4 protections under the Residential Tenancies Act 2004. Finally, this Section also provides that compliance with the six-month rule for a cost rental dwelling does not constitute discrimination in the provision of accommodation, as defined in the Equal Status Acts.

### ***Cost rental tenancy not social housing support***

*Section 36* provides that a tenancy in a cost rental dwelling is not in itself a form of social housing support, notwithstanding that the landlord may be a Local Authority or an Approved Housing Body. However, the payment of Housing Assistance Payment in respect of a cost rental dwelling, in compliance with Section 35, will be deemed to be an appropriate form of social housing support for the household in question.

### ***Obligation of owner to provide information to Minister regarding cost rental dwelling***

*Section 37* provides that the Minister may, for the purpose of monitoring compliance with the legislation and the compilation of statistical data, perform audits of cost rental tenancies. The Minister may prescribe that the owners of cost rental dwellings keep certain records and make them available to the Minister on request. In cases where ownership of a cost rental dwelling has changed hands, a former owner may have a time-limited obligation to keep records and make them available.

### ***Extension of minimum period***

*Section 38* provides for how the owner of a cost rental dwelling may apply to the Minister to extend the ‘minimum period’ that binds a dwelling to the provisions of this legislation. The ‘minimum period’ will have initially been set at the time of the cost rental designation, but an owner may choose to extend this commitment. This Section empowers the Minister to prescribe the process for this extension, and directs that any extension be reflected in the details registered for the dwelling in the Registry of Deeds or the Land Registry.

### ***Termination of cost rental period***

*Section 39* provides for the circumstances in which the cost rental designation of a dwelling may be ended by the Minister through a ‘cost rental revocation’ document, the form of which the Minister shall prescribe. This is an opt-out mechanism, whereby the owner of the dwelling may request a revocation once the ‘minimum period’ has expired, and the Minister must consent to the revocation in such circumstances. If the ‘minimum period’ has expired, the provisions of this Part continue to apply to the dwelling until this formal opt-out process has been completed. Any extension of the ‘minimum period’ at the request of the owner under Section 38 will delay this option. The other path to revocation is through an application by the owner, to be judged by the Minister, that it is in the public interest that a cost rental designation be revoked on ‘exceptional grounds’. This would be because unforeseeable circumstances mean that the intention of the

legislation cannot be achieved in the case of a certain cost rental dwelling, at least not on the terms of the original designation. It is not envisaged that this power would be used in the normal course of events, but it is provided for in the legislation to deal with extraordinary cases. Furthermore, the Minister may place additional conditions on any revocations under these ‘exceptional grounds’. This Section also provides that registrations in the Register of Deeds or Land Registry be updated to reflect the revocation of a cost rental designation.

#### ***Cost rental tenancies subsisting on termination of cost rental period***

*Section 40* is a saving clause that preserves the position of a sitting tenant, notwithstanding revocation of a cost rental designation, if the tenancy is protected by Part 4 of the Residential Tenancies Act 2004 at the point that the Minister revokes the designation. A tenancy gains these Part 4 protections when a tenant, or at least one among multiple tenants, has resided in the dwelling continuously under a tenancy for six months. This Section provides that the owner of the dwelling can only validly terminate the tenancy in accordance with both the statutory Part 4 protections and also the provisions of this legislation, which continue to have effect until such termination. Since many of the grounds on which landlords may terminate a Part 4 Tenancy are excluded for cost rental dwellings by Section 33, a tenant in this situation may be able to live in the dwelling concerned for up to five and a half years after the revocation of the cost rental designation, until the end of the six-year Part 4 Tenancy cycle.

#### ***Loans to approved housing bodies in support of cost rental dwellings***

*Section 41* provides for the Housing Agency to make loans to Approved Housing Bodies to fund the provision of dwellings to be designated as cost rental dwellings, out of funds provided for that purpose by the Minister. It is intended that these provisions will be used to implement the Cost Rental Equity Loan (CREL) scheme funded under Budget 2021, along with any future iterations of this scheme. The Minister may prescribe the conditions of such loans, including security arrangements, and the Minister must give his prior consent to any loan the Agency makes to an AHB. This Section also provides for the Minister to direct how the Agency will handle funds from the repayment of such loans by AHBs.

### **PART 4**

#### **PROVISION OF FUNDING TO PURCHASE EQUITY SHARE IN DWELLINGS**

#### ***Minister may provide funding to undertaking to enable purchase of dwellings***

*Section 42* provides that the Minister may contribute funds to a special purpose vehicle (SPV) for the purpose of operating and administering an Affordable Purchase Shared Equity scheme. This scheme will see the SPV support eligible purchasers of private homes by purchasing an equity share in homes.

It also provides that the Minister may agree the terms by which the equity support may be provided in a memorandum of agreement with the SPV. The Memorandum of Agreement may provide for terms in the following areas: 1) purchaser eligibility and financial means, 2) the homes that may be considered eligible under the scheme, 3) the amount of funding that can be provided, 4) the security required in respect of the funds provided, 5) conditions in relation to the redemption by the purchasers of the support provided, 6) conditions in respect of interest charged in respect of the funding provided, 7) conditions in relation to the recovery of

funds provided, 8) fees or charges that may be applied by the SPV, and 9) conditions in relation to contractors to qualify to provide dwellings.

## **PART 5**

### **ARRANGEMENTS BETWEEN HOUSING AUTHORITY AND LAND DEVELOPMENT AGENCY IN RELATION TO ELIGIBILITY AND PRIORITY FOR CERTAIN DWELLINGS**

#### ***Arrangements between housing authority and Land Development Agency***

*Section 43* allows for arrangements to be made between the Land Development Agency (LDA) and a housing authority which would see a housing authority advertise, select and prioritise eligible purchasers for homes being sold by the LDA. Selection and prioritisation would be in accordance with the scheme of priority (section 11) applicable to the housing authority area within which the LDA has developed affordable homes for sale. The LDA would sell the homes directly to the purchasers, and all other matters, including charges on the property, would be arranged between the LDA and the purchasers. The housing authority's role here would be limited to those matters detailed in the section.

## **PART 6**

### **MISCELLANEOUS**

#### ***Agreements with financial institutions in respect of affordable housing under Act of 2000 or Act of 2002***

*Section 44* contains provisions allows a housing authority, in the case of homeowners who purchased their homes under previous schemes, to enter an agreement with a lending institution as regards the priority of charges to enable a subsequent equity release or 'top-up' mortgage by the homeowner (for example to finance an extension). This is in respect of affordable homes provided under Part V of the Planning and Development Act 2000 and Part 2 of the Housing (Miscellaneous Provisions) Act 2002.

## **PART 7**

### **REPEALS**

#### ***Repeals***

*Section 45* repeals Part 5 of the Housing Miscellaneous Act of 2009 (other than those limited provisions in Section 96 which allows arrangements in relation to previous schemes to continue to apply).

#### **Financial Implications**

This Bill is designed to set the policy framework for a number of schemes aimed at making more affordable homes available for purchase and rent for eligible households. Capital funding to underpin the delivery of homes within these schemes will be voted by the Oireachtas in line with Government spending priorities. The assessment of the quantum of funding required under these schemes over the longer term will be informed by the review of the National Development Plan, the upcoming strategic 'Housing for All' plan, and the annual budgetary process.

At present for 2021, some €35m has been explicitly allocated to the Cost Rental Equity Loan (CREL), which will be administered by the Housing and Sustainable Communities Agency in the manner set out in Section 41. This funding has also been supported by an additional €100m of State-backed loans from the Housing Finance Agency. Once placed on a statutory basis, the Land Development Agency will also deliver Cost Rental and affordable

homes for purchase via €1.25b from the Ireland Strategic Investment Fund (ISIF) and any further funding raised.

Other supports for the development of cost rental accommodation are being facilitated through the €310m Serviced Sites Fund. This funding is available to Local Authorities to assist in the development of homes for both affordable purchase under Part 2 of this Bill and for cost rental under Part 3.

The new Affordable Purchase Shared Equity scheme for private lands, as addressed in Part 4 of this Bill, has received initial funding of €75m for 2021. It is expected that Exchequer funds and non Exchequer co-funding will be provided for this scheme in both 2022 and 2023.

*An Roinn Tithíochta, Rialtais Áitiúil, agus Oidhreachta,  
Bealtaine, 2021.*