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HOUSING (MISCELLANEOUS PROVISIONS) ACT, 2002

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HOUSING (MISCELLANEOUS PROVISIONS) ACT, 2002

AN ACT TO PROVIDE FOR THE MAKING AVAILABLE, AND RESALE, OF AFFORDABLE HOUSES, TO PROVIDE FOR THE PURCHASE OF THE INTEREST OF A HOUSING AUTHORITY IN A HOUSE WHICH IS SUBJECT TO A SHARED OWNERSHIP LEASE AND THE SALE OF SUCH A HOUSE, TO PROVIDE FOR THE MAKING OF GRANTS IN RESPECT OF NEW HOUSES AND TO APPROVED BODIES, TO PROVIDE FOR THE GIVING OF CERTAIN INFORMATION BY MORTGAGE LENDERS TO THE MINISTER, TO EXTEND THE POWERS AND INCREASE THE BORROWING LIMIT OF THE HOUSING FINANCE AGENCY, TO AMEND AND EXTEND THE HOUSING ACTS, 1966 TO 1998, THE FINANCE ACT, 1970, THE HOUSING FINANCE AGENCY ACT, 1981, TO AMEND THE HOUSING (PRIVATE RENTED DWELLINGS) ACT, 1982, THE BUILDING SOCIETIES ACT, 1989, THE NATIONAL TREASURY MANAGEMENT AGENCY ACT, 1990, THE CRIMINAL JUSTICE (PUBLIC ORDER) ACT, 1994, AND THE DUBLIN DOCKLANDS DEVELOPMENT AUTHORITY ACT, 1997, AND TO PROVIDE FOR RELATED MATTERS. [10th April, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Housing (Miscellaneous Provisions) Act, 2002. Short title and commencement.

(2) The Housing Acts, 1966 to 1998, and this Act, other than *sections 17 to 20, 22, 23 and 24 and Schedules 2 and 3*, may be cited together as the Housing Acts, 1966 to 2002, and shall be read together as one Act.

(3) This Act, other than *section 12*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions or for the repeal of different enactments effected by *section 4*.

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Interpretation.

2.—(1) In this Act, except where the context otherwise requires—

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

“house” includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant thereto or usually enjoyed therewith and “housing” shall be read accordingly;

“housing authority” has the meaning assigned to it by section 23 (as amended by *section 16*) of the Act of 1992;

“Minister” means the Minister for the Environment and Local Government;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“Principal Act” means the Housing Act, 1966.

(2) In this Act—

(a) a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act, unless it is indicated that a reference to some other enactment is intended,

(b) a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and

(c) a reference to any other enactment shall, unless the context otherwise requires, be read as a reference to that enactment as amended by or under any other enactment, including this Act.

Regulations.

3.—(1) The Minister may make regulations—

(a) prescribing any matter referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations, or

(b) for the purposes of, and for the purposes of giving full effect to, this Act.

(2) Regulations made under this Act may—

(a) include any incidental, supplemental and consequential provisions that appear to the Minister to be necessary or expedient, or

(b) apply either generally or to a specified class or classes of persons or to any other matter that the Minister may consider to be appropriate and include different provisions in relation to different classes of persons.

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled

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accordingly but without prejudice to the validity of anything previously done under the regulation. Pt.1 S.3

4.—Each enactment specified in *column (2)* of *Schedule 1* is repealed to the extent specified in *column (3)* of that Schedule. Repeals.

PART 2

AFFORDABLE AND SHARED OWNERSHIP HOUSING SCHEMES

5.—In this Part—

Definitions.

“affordable house” means a house made available for sale in accordance with this Part by a housing authority at a price less than the market value and “affordable housing” shall be read accordingly;

“market value”, in relation to a house, means the price which, in the opinion of the housing authority concerned, might reasonably be obtained in respect of such house, if sold on the open market;

“shared ownership lease” means a shared ownership lease granted by a housing authority under section 3 of the Act of 1992.

6.—(1) A housing authority may acquire, build or cause to be built affordable houses for sale by the housing authority in accordance with this Part. Provision of affordable houses.

(2) The Minister may make regulations for the purposes of this section and those regulations may include provision for all or any of the following:

- (a) the class or classes of affordable houses that may be made available for sale;
- (b) the class or classes of persons to whom affordable houses may be made available for sale;
- (c) the form and manner in which an application to purchase an affordable house may be made;
- (d) the manner in which the price at which an affordable house may be sold shall be determined;
- (e) the requirements in relation to the family, income and other financial circumstances of persons to whom affordable houses may be made available for sale;
- (f) requirements in relation to the occupation and maintenance of an affordable house;
- (g) requirements in relation to the floor area of an affordable house determined in the prescribed manner;
- (h) requirements in relation to the standards of construction, maintenance and repair of, and the provision of water, sewerage and other services to, an affordable house;
- (i) the obligations of a person to whom an affordable house is made available for sale, including either or both of the following:

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- (i) the provision of mortgage protection insurance;
- (ii) the minimum deposit payable by a person to a housing authority in respect of the purchase of an affordable house.

Subsidy towards housing loan charges.

7.—(1) The Minister may, with the consent of the Minister for Finance and subject to regulations that may be made by the Minister under this section, pay, out of moneys provided by the Oireachtas, a subsidy towards the loan charges incurred by a person to whom a housing authority makes a loan for the purchase of an affordable house.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for all or any of the following:

- (a) the amount of a subsidy, the conditions under which it may be paid and the manner of its payment, including payment by instalments;
- (b) the payment to the housing authority making the loan of a subsidy on behalf of the person to whom it is payable under *subsection (1)* and the conditions under which it is paid to the housing authority;
- (c) the class or classes of persons to whom a subsidy may be paid;
- (d) requirements in relation to the family, income and other financial circumstances of a person to whom a subsidy may be paid;
- (e) the period within which application for a subsidy shall be made;
- (f) requirements in relation to the payment of any other subsidy or grant in respect of a house under any enactment (including this Act).

Allocation of affordable houses.

8.—(1) Each housing authority shall establish a scheme that determines the order of priority to be accorded to persons to whom affordable houses are made available for sale under this Part where the number of persons applying to the housing authority to purchase a house exceeds the number of houses available.

(2) For the purposes of establishing a scheme referred to in *subsection (1)*, the housing authority shall have regard to the following:

- (a) the accommodation needs of persons to whom affordable houses are made available for sale, in particular persons who have not previously purchased or built a house for their occupation or for any other purpose;
- (b) the current housing circumstances of persons to whom affordable houses are made available for sale;
- (c) the period for which persons to whom affordable houses are made available for sale have resided in the functional area of the housing authority;

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(d) distance of affordable housing from places of employment of persons to whom affordable houses are made available for sale; and Pt.2 S.8

(e) such other matters as the housing authority considers appropriate.

(3) A housing authority may review a scheme made under this section and, as it considers appropriate, make amendments to the scheme or make a new scheme.

(4) The making of a scheme under this section and the making of an amendment to any such scheme shall be reserved functions.

9.—(1) In this section “purchaser” means a person to whom an affordable house is sold under this Part. Control on resale of affordable houses.

(2) Where an affordable house is made available for sale in accordance with this Part, the sale of the house to the purchaser shall, subject to *subsection (3)*, be subject to any terms and conditions that the housing authority may specify, including terms and conditions relating to:

(a) notification of the housing authority by the purchaser of the proposed resale of the house;

(b) the occupation of the house by the purchaser.

(3) (a) The terms and conditions referred to in *subsection (2)* shall require, subject to *paragraphs (c) and (d)*, that where an affordable house sold under this Part is resold by the purchaser before the expiration of 20 years from the date of sale to him or her, the purchaser shall pay to the housing authority an amount equal to a percentage of the proceeds of sale.

(b) The percentage referred to in *paragraph (a)* is calculated in accordance with the following formula—

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

where—

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

(ii) Z is the market value of the house at the date of sale to the purchaser.

(c) The amount payable under *paragraph (a)* shall be reduced by 10 per cent in respect of each complete year after the 10th year during which the purchaser has been in occupation of the house as his or her normal place of residence.

(d) Where the amount payable under *paragraph (a)* would reduce the proceeds of the sale (disregarding solicitor and estate agent’s costs and fees) below the price actually paid, the amount payable shall be reduced to the extent necessary to avoid that result.

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(e) (i) In calculating the amount payable under *paragraph (a)*, due allowance shall be made for any material improvements made by the purchaser, and any such allowance shall be deducted from the proceeds of sale before the amount so payable is calculated.

(ii) In this paragraph “material improvements” means improvements made to the house (whether for the purpose of extending, enlarging, repairing or converting the house), but does not include decoration, or any improvements carried out on the land including the construction of a house.

(4) Any moneys accruing to a housing authority arising out of the resale of an affordable house under this section shall be used by the housing authority for the provision of housing or for the improvement or refurbishment of existing housing.

Shared ownership lease: purchase of interest of housing authority in house or sale of house.

10.—(1) In this section “purchaser” means a person to whom a shared ownership lease is granted.

(2) A shared ownership lease shall, subject to *subsection (3)*, be subject to the terms or conditions that the housing authority may specify including terms and conditions relating to:

(a) notification of the housing authority by the purchaser of the proposed sale of the purchaser’s interest in the house;

(b) the occupation of the house by the purchaser.

(3) (a) The terms and conditions referred to in *subsection (2)* shall require, subject to *paragraphs (c)* and *(d)*, that where a purchaser—

(i) purchases the interest of the housing authority in the house, or

(ii) sells his or her interest in the house,

before the expiration of 20 years from the date of the shared ownership lease, the purchaser shall pay to the housing authority an amount equal to a percentage of the current market value.

(b) The percentage referred to in *paragraph (a)* is calculated in accordance with the following formula—

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

where—

(i) Y is the difference between the market value of the house at the date of grant of the shared ownership lease, and the sale price of the house used to calculate the payment made by the purchaser in respect of the grant of the shared ownership lease, and

(ii) Z is the market value of the house at the date of grant of the shared ownership lease.

(c) The amount payable under *paragraph (a)* shall be reduced by 10 per cent in respect of each complete year after the

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10th year during which the purchaser has been in occupation of the house as his or her normal place of residence. Pt.2 S.10

(d) (i) Where the amount payable under *paragraph (a)* would increase the purchase price above the current market value of the house, the amount payable shall be reduced to the extent necessary to avoid that result.

(ii) In this paragraph “purchase price” means the aggregate of the following payments made by the purchaser to the housing authority in accordance with the terms and conditions of the shared ownership lease—

(I) the payment made in respect of the grant of the shared ownership lease and, where applicable, any further payments made,

(II) the payment made on the sale of the house or on the purchase of the interest of the housing authority in the house, and

(III) the amount payable under *paragraph (a)*.

(e) (i) In calculating the amount payable under *paragraph (a)*, due allowance shall be made for any material improvements made by the purchaser, and any such allowance shall be deducted from the proceeds of sale before the amount so payable is calculated.

(ii) In this paragraph “material improvements” means improvements made to the house (whether for the purpose of extending, enlarging, repairing or converting the house), but does not include decoration, or any improvements carried out on the land including the construction of a house.

(4) Any moneys accruing to a housing authority arising out of—

(a) the purchase of the interest of the housing authority in a house, or

(b) the sale of a house,

under this section shall be used by the housing authority for the provision of housing or for the improvement or refurbishment of existing housing.

PART 3

MISCELLANEOUS

11.—(1) The Minister may, with the consent of the Minister for Finance and subject to such regulations as may be made by the Minister for the purposes of this section, pay, out of moneys provided by the Oireachtas, a grant to a person in respect of a new house. New house grants.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under this section may provide for all or any of the following:

(a) the class or classes of person to whom a grant may be paid;

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- (b) the amount of a grant including the payment of different amounts in different circumstances and subject to those conditions that the Minister may prescribe, including conditions relating to:
- (i) standards of construction of houses and the provision of water, sewerage and other services;
 - (ii) the efficient consumption of energy, including the use of renewable forms of energy;
 - (iii) sustainable building practices, including the use of recycled or re-usable building materials and the storage, removal, recycling or re-use of builder's waste;
- (c) eligibility criteria, including criteria in relation to:
- (i) the occupation of the house;
 - (ii) payment of a grant to persons who have previously purchased or built another house for occupation by them;
 - (iii) the family, income or other financial circumstances of a person applying for a grant;
 - (iv) the information and documentation required to be provided by a person applying for a grant;
 - (v) requirements in relation to the payment of any other grant or subsidy in respect of a house under any enactment (including this Act);
- (d) the total floor area of the house determined in the prescribed manner.

(3) Compliance with the conditions referred to in *subsection (2)(b)(i)* is a condition precedent to the making of a grant under this section.

Assistance by
Minister to
approved bodies.

12.—(1) The Minister may, with the consent of the Minister for Finance, pay out of moneys provided by the Oireachtas, a grant in respect of the administrative and general expenses of a body to which this section applies and standing approved of by the Minister for the purposes of this section.

(2) This section applies to a body which—

- (a) represents or promotes the formation of co-operative or voluntary groups or associations which have as an object the provision of—
- (i) houses, or
 - (ii) sites (within the meaning of the Housing (Traveller Accommodation) Act, 1998) for the accommodation of travellers (within the meaning of that Act),

or

- (b) provides information, advice or training or conducts research in relation to housing including housing needs, standards, management, finance or any other aspect of

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housing policy either generally or in relation to a particular class or classes of persons that the Minister may specify, in particular, elderly persons, persons with a disability, homeless persons (within the meaning of the Housing Act, 1988) or travellers (within the meaning of the Housing (Traveller Accommodation) Act, 1998). Pt.3 S.12

(3) A grant made under this section shall be subject to the terms and conditions that may be determined by the Minister from time to time.

(4) This section shall be deemed to have come into operation on 1 January 2001.

13.—(1) In this section “mortgage lender” has the same meaning as in the Central Bank Act, 1997. Provision of information to Minister by mortgage lenders.

(2) The Minister may, from time to time, in the interests of consumer protection or for the purposes of his or her functions in relation to housing or the development and co-ordination of housing policy or relevant financial and economic policies, require mortgage lenders to provide to the Minister such information as the Minister specifies, including the following:

- (a) in respect of a person to whom a mortgage lender has granted approval for a mortgage or granted a mortgage, his or her age, gender, marital status and income level, the nature of his or her employment and whether the person is a first time buyer;
- (b) the purpose, amount, type and term of the mortgage and the applicable rate of interest;
- (c) the price, age, size and type of house in respect of which a mortgage is sought and its location by reference to the relevant country or, where the house is located in the State, the relevant county or postal district.

(3) The information referred to in *subsection (2)*—

- (a) shall be provided at the times and in the form and manner that the Minister requires, and
 - (b) shall not include information that directly identifies or may identify a person and, in particular, it shall not include the names, dates of birth or addresses of persons in respect of whom information is requested or provided.
- (4) (a) Subject to *subsection (5)*, where information is provided to the Minister under this section, the information shall not be disclosed by any person receiving, inputting, storing, managing, processing, analysing, accessing or using the information, except in accordance with any arrangements that may be made by the Minister with the mortgage lenders concerned.
- (b) Information that is provided to the Minister under this section or that is derived from an analysis of such information shall not be disclosed where it directly or indirectly identifies or may identify a person or mortgage lender.

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(5) *Subsection (4)* shall not apply to a disclosure of information which is required by or under any enactment or by a rule of law or order of a court.

(6) The Freedom of Information Act, 1997, is amended in Part I of the Third Schedule by inserting—

(a) in column (1), “*No. — of 2002*”,

(b) in column (2), “*Housing (Miscellaneous Provisions) Act, 2002*”, and

(c) in column (3), “*Section 13*”.

Amendment of section 58 of Principal Act (Management and control of certain dwellings, etc.).

14.—Section 58 of the Principal Act is amended—

(a) by inserting the following after subsection (1):

“(1A) The management and control of the common areas appurtenant to a dwelling and provided by a housing authority under this Act are not required to be vested in the housing authority under subsection (1) of this section.

(1B) A housing authority may perform management and control functions vested in it under subsection (1) of this section in respect of any dwelling of which the housing authority is not the owner and which is provided under a contract or lease between the housing authority and the owner of the dwelling.”,

and

(b) by inserting the following after subsection (3):

“(3A) Without prejudice to the generality of subsection (3) of this section, charges made under that subsection may include—

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

(b) any other charges that may be prescribed under this section in relation to:

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

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

(3B) A housing authority may make such charge under subsection (3) of this section, whether by way of rent or otherwise, as it considers appropriate, in respect of any dwelling of which the housing authority is not the owner and which is provided under a contract or lease between the housing authority and the owner of the dwelling.”.

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15.—Section 90 (inserted by the Act of 1992) of the Principal Act is amended by inserting the following after subsection (6)—

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Amendment of section 90 of Principal Act (Power of housing authority to sell certain dwellings).

“(6A) Where a dwelling is sold to a tenant under a purchase scheme, the housing authority shall not be liable after the date of sale for any charges payable in respect of the dwelling relating to:

- (a) the provision of services to and the insurance of the dwelling and other charges relating to the management and control of the dwelling;
- (b) the management and control of common areas appurtenant to the dwelling, where those common areas are also used by the occupants of other dwellings;
- (c) the provision of services where those services are also provided to the occupants of other dwellings.”.

16.—Section 23 of the Act of 1992 is amended—

Amendment of section 23 of Act of 1992.

(a) by substituting the following for subsections (1) and (2):

“(1) Subject to subsections (2) and (3), a reference in the *Housing Acts, 1966 to 2002*, to a housing authority means, in the case of—

- (a) a county, the county council,
- (b) a city, the city council,
- (c) a borough mentioned in Chapter 1 of Part 1 of Schedule 6 to the Act of 2001, except as respects—
 - (i) section 6 of the Act of 1979,
 - (ii) section 8 of the Act of 1988,
 - (iii) sections 2 to 4 and sections 6 and 7 of this Act, and
 - (iv) *Part 2 of the Housing (Miscellaneous Provisions) Act, 2002*,

the borough council and, as respects each of those sections, the county council in whose administrative area the borough is situate,

- (d) a town mentioned in Chapter 2 of Part 1 of Schedule 6 to the Act of 2001, except as respects—
 - (i) section 6 of the Act of 1979,
 - (ii) sections 8 and 16 of the Act of 1988,
 - (iii) sections 2 to 4 and sections 6, 7 and 11 of this Act, and

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(iv) *Part 2 of the Housing (Miscellaneous Provisions) Act, 2002,*

the town council and, as respects each of those sections, the county council in whose administrative area the town is situate,

(e) a town mentioned in Part 2 of Schedule 6 to the Act of 2001, except as respects—

(i) sections 34 to 36 and section 41 of the Principal Act,

(ii) section 6 of the Act of 1979,

(iii) sections 2 and 6, sections 8 to 10 and sections 13 and 16 of the Act of 1988,

(iv) sections 2 to 7, sections 10 to 12, and sections 14, 17, 18, 20, 34 and 35 of this Act, and

(v) *Part 2 of the Housing (Miscellaneous Provisions) Act, 2002,*

the town council and, as respects each of those sections, the county council in whose administrative area the town is situate,

and references to the functional area of a housing authority shall be construed accordingly.

(2) A reference in the *Housing Acts, 1966 to 2002*, to a housing authority means, in the case of—

(a) the boroughs of Drogheda, Sligo and Wexford, except as respects—

(i) section 6 of the Act of 1979,

(ii) section 8 of the Act of 1988, and

(iii) sections 6 and 7 of this Act,

the respective borough councils and, as respects each of those sections, the respective county councils in whose administrative areas those boroughs are situate,

(b) the town of Bray, except as respects—

(i) section 6 of the Act of 1979,

(ii) section 8 of the Act of 1988,

(iii) sections 2 to 4 and sections 6 and 7 of this Act, and

(iv) *Part 2 of the Housing (Miscellaneous Provisions) Act, 2002,*

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the town council and, as respects each of those sections, the county council in whose administrative area that town is situate, Pt.3 S.16

(c) the towns of Athlone and Dundalk, except as respects—

(i) section 6 of the Act of 1979,

(ii) section 8 of the Act of 1988, and

(iii) sections 6 and 7 of this Act,

the respective town councils and, as respects each of those sections, the respective county councils in whose administrative areas those towns are situate,

and references to the functional area of those housing authorities shall be construed accordingly.”,

and

(b) by inserting the following after subsection (4):

“(5) In this section ‘Act of 2001’ means the Local Government Act, 2001.”.

17.—The Housing Finance Agency Act, 1981 (as amended by the Act of 1992), is amended—

Amendments to
Housing Finance
Agency Act, 1981.

(a) in section 4(2), by substituting the following for paragraphs (b) and (c)—

“(b) to provide moneys to enable such loans to be made by housing authorities,

(c) to provide moneys—

(i) to local authorities to be used by them for any capital purpose authorised by or under any enactment mentioned in the Schedule to this Act;

(ii) to a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, to be used by it in respect of the provision or management of housing accommodation as provided for in that section or in respect of other matters in relation to housing that may be determined by the Minister with the consent of the Minister for Finance, including the acquisition of land by such a body,

and

(d) to borrow money for the aforesaid purposes.”,

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(b) in section 5—

(i) in paragraph (a), by deleting “or”,

(ii) in paragraph (b), by substituting “,” for “.”, and

(iii) by inserting the following after paragraph (b):

“(c) a local authority, to be used by it for any capital purpose authorised by or under any enactment mentioned in the Schedule to this Act, or

(d) a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, to be used by it in respect of the provision or management of housing accommodation as provided for in that section or in respect of other matters in relation to housing that may be determined by the Minister with the consent of the Minister for Finance, including the acquisition of land by such a body.”,

(c) in section 10(3), by substituting “€6,000,000,000” for “£1,500,000,000”,

(d) by inserting the following after section 10:

“Performance of borrowing function of Agency by National Treasury Management Agency.

10A.—(1) In this section ‘National Treasury Management Agency’ means the National Treasury Management Agency established by the National Treasury Management Agency Act, 1990.

(2)(a) Subject to the prior consent of the Minister for Finance, the Agency may request the National Treasury Management Agency to perform, on its behalf, its borrowing functions under—

(i) subsections (1), (1A) (inserted by the Housing Finance Agency (Amendment) Act, 1985) and (2) of section 10 of this Act, and

(ii) section 3 of the Borrowing Powers of Certain Bodies Act, 1996.

(b) Where a request is made under paragraph (a) of this subsection, the National Treasury Management Agency shall perform those borrowing functions on behalf of the Agency.

(c) The National Treasury Management Agency shall exercise the function of the Agency in relation to the management of the indebtedness of the Agency incurred by the Agency under

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the provisions referred to in paragraph (a) of this subsection on the terms and conditions that may be agreed by the National Treasury Management Agency with the Agency. Pt.3 S.17

(3) The Minister for Finance may revoke his or her consent given under subsection (2) of this section.

Advances of moneys to Agency by Minister for Finance.

10B.—(1) The Minister for Finance may advance moneys from the Central Fund or the growing produce thereof to the Agency, on such terms and conditions as that Minister thinks fit, for the purposes of borrowing by the Agency under section 10(1) of this Act.

(2) Advances under subsection (1) of this section shall be repaid to the Exchequer subject to the terms and conditions that the Minister for Finance may determine.”,

and

(e) by inserting after section 18 the Schedule set out in *Schedule 2*.

18.—Section 54 of the Finance Act, 1970, is amended by inserting the following after subsection (7) (inserted by the Finance Act, 1983): Amendment of section 54 of Finance Act, 1970.

“(7A) The Minister for Finance may engage in such transactions of a normal banking nature with the Housing Finance Agency and with other persons—

(a) in connection with the performance by the Housing Finance Agency of its borrowing function under—

(i) subsections (1), (1A) (inserted by the Housing Finance Agency (Amendment) Act, 1985) and (2) of section 10 of the Housing Finance Agency Act, 1981, and

(ii) section 3 of the Borrowing Powers of Certain Bodies Act, 1996,

and

(b) for the purposes of the better management of the indebtedness incurred by the Housing Finance Agency under the provisions referred to in paragraph (a),

and may, for the purpose of those transactions, issue such funds from the Exchequer, as the Minister for Finance considers appropriate, and the expenses and other costs incurred by the Minister for Finance in connection with or arising out of those transactions shall be charged on the Central Fund or the growing produce thereof.”.

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Amendment of
First Schedule to
National Treasury
Management
Agency Act, 1990.

19.—The First Schedule to the National Treasury Management Agency Act, 1990, is amended—

(a) by inserting the following after paragraph (gg) (inserted by section 163 of the Finance Act, 1997):

“(ggg) section 54(7A) (inserted by the *Housing (Miscellaneous Provisions) Act, 2002*) (in so far as the provision relates to the engagement in certain transactions of a normal banking nature) of the Finance Act, 1970,”,

and

(b) by inserting the following after paragraph (q) (inserted by the *Nítrigin Éireann Teoranta Act, 2001*):

“(r) section 10B (inserted by the *Housing (Miscellaneous Provisions) Act, 2002*) of the Housing Finance Agency Act, 1981,”.

Amendment of
Housing (Private
Rented Dwellings)
Act, 1982.

20.—The Housing (Private Rented Dwellings) Act, 1982, is amended by inserting the following after Part III:

“PART IV

REGULATIONS

Regulations.

28.—(1) The Minister for Social, Community and Family Affairs may, with the consent of the Minister for Finance, make regulations for the payment out of moneys provided by the Oireachtas of allowances to persons who are, on 25 July 2002, tenants of dwellings to which section 8(1) relates—

(a) whose entitlement to retain possession of the dwellings concerned subsists after 25 July 2002 by operation of law or otherwise,

(b) whose rent—

(i) is determined in accordance with such terms and conditions, or

(ii) is less than such amount,

as the Minister for Social, Community and Family Affairs may specify in those regulations,

and

(c) who would otherwise suffer hardship by reason of increases in the rents of their dwellings.

(2) Entitlement to an allowance and the amount and the payment thereof shall be subject to such terms and conditions as may be specified in the regulations.

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(3) Subsections (2) and (3) of section 4 of the Social Welfare (Consolidation) Act, 1993, shall have effect in relation to regulations under this section and the regulations may apply (with or without modification), or make provisions corresponding (with or without modification) to, any other provisions of, or any provisions made under, that Act. Pt.3 S.20

(4) Any expenses incurred by the Minister for Social, Community and Family Affairs or any other Minister in carrying this section into effect shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.”.

21.—Section 10 (as amended by the Housing (Traveller Accommodation) Act, 1998) of the Housing (Miscellaneous Provisions) Act, 1992, is amended in subsection (1) by substituting the following for paragraph (c)— Amendment of section 10 of Housing (Miscellaneous Provisions) Act, 1992.

“(c) is within a one mile radius of any site provided, managed or controlled by a housing authority under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any other traveller accommodation provided, managed or controlled by a housing authority under the *Housing Acts, 1966 to 2002*, or any traveller housing accommodation provided or managed under section 6 and the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained is of the opinion that, whether by reason of its use or occupancy or by reason of its being one of a number of such temporary dwellings or otherwise, such temporary dwelling or any occupant of the temporary dwelling—

- (i) is causing a nuisance or obstruction to the occupants of that site or traveller accommodation or to the occupants of any other dwelling or dwellings within a one mile radius of that site or that traveller accommodation, or
- (ii) creates a risk to the quality of water, sanitary, electrical or other services associated with that site or traveller accommodation or with any other dwelling or dwellings within a one mile radius of that site or traveller accommodation, or
- (iii) obstructs or interferes with the use or enjoyment by any person of any public or private amenity or any public or private facility or the maintenance of any such amenity or facility, within a one mile radius of that site or traveller accommodation,

the housing authority concerned may serve notice on that person requiring that person, within a specified period, to remove the said temporary dwelling.”.

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Pr.3
Amendment to
section 25 of the
Dublin Docklands
Development
Authority Act,
1997.

22.—Section 25 of the Dublin Docklands Development Authority Act, 1997, is amended—

(a) in subsection (7)—

(i) in paragraph (a), by substituting “paragraphs (b) and (c)” for “paragraph (b)”, and

(ii) by inserting the following after paragraph (b):

“(c) For the avoidance of doubt, a certificate issued under paragraph (a)(ii) may include the following:

(i) in the case of a development wholly or partly for the provision of housing, a condition requiring that a percentage, not being more than 20 per cent, specified in the certificate, of houses being provided for in the development to which the certificate relates shall be provided for social or affordable housing;

(ii) a condition requiring the payment of a contribution towards any expenditure that has been, is being, or is intended to be incurred, by or on behalf of—

(I) Dublin City Council, in respect of the provision of public infrastructure and facilities that benefit or facilitate development in the area to which the planning scheme concerned relates;

(II) the Authority, in respect of the provision of public infrastructure and facilities in accordance with its functions under section 18 or to give effect to the master plan or the planning scheme concerned;

(iii) a condition relating to any matter which the Authority considers is in furtherance of the master plan or a planning scheme.”,

and

(b) by inserting the following after subsection (7):

“(8) In this section—

‘house’ includes any building or part of a building used or suitable for use as a dwelling and any outoffice, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building, and, where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building, and ‘housing’ shall be read accordingly;

‘the provision of public infrastructure and facilities’ means—

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- (a) the acquisition of land, Pt.3 S.22
- (b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,
- (c) the provision of roads, places for the parking of vehicles, bridges, sewers, waste water and water treatment facilities, drains and watermains,
- (d) the provision of bus corridors and bus lanes, bus interchange facilities (including car parks for those facilities), rail and light rail transport and any other infrastructure to facilitate public transport,
- (e) the provision of cycle and pedestrian facilities and traffic calming measures,
- (f) the refurbishment, upgrading, enlargement or replacement of roads, places for the parking of vehicles, bridges, sewers, waste water and water treatment facilities, drains or watermains, and
- (g) any matters ancillary to paragraphs (a) to (f).”.

23.—The Building Societies Act, 1989, is amended to the extent specified in *Schedule 3*. Amendments to Building Societies Act, 1989.

24.—The Criminal Justice (Public Order) Act, 1994, is amended by inserting the following after Part II: Amendment to Criminal Justice (Public Order) Act, 1994.

“PART IIA

OFFENCES RELATING TO ENTERING AND OCCUPYING LAND WITHOUT CONSENT

Interpretation (Part IIA).

19A.—(1) In this Part, except where the context otherwise requires—

‘Commissioner’ means the Commissioner of the Garda Síochána;

‘consent duly given’ means consent given by—

- (a) in the case of lands referred to in subsection (2)(a), the relevant statutory body,
- (b) in the case of lands referred to in subsection (2)(b), the relevant trustees, and
- (c) in any other case, the owner concerned;

‘health board’ means

- (a) a health board established under the Health Act, 1970,
- (b) the Eastern Regional Health Authority, or

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- (c) an Area Health Board established under the Health (Eastern Regional Health Authority) Act, 1999;

‘local authority’ means a county council, a city council or a town council for the purposes of the Local Government Act, 2001;

‘object’ includes any temporary dwelling (within the meaning of section 69 of the Roads Act, 1993) and an animal of any kind or description;

‘owner’ means—

- (a) in relation to land, the person lawfully entitled—

(i) to possession, and

(ii) to the immediate use and enjoyment,

of the land as the owner, lessee, tenant or otherwise, or any person acting on behalf of that person;

- (b) in relation to land referred to in paragraph (a) or (b) of subsection (2), the relevant statutory body or trustees, as the case may be;

‘statutory body’ means—

(a) a Minister of the Government,

(b) the Commissioners of Public Works in Ireland,

(c) a local authority,

(d) a harbour authority within the meaning of the Harbours Act, 1946, or a company established pursuant to section 7 of the Harbours Act, 1996,

(e) a health board,

(f) a vocational education committee within the meaning of the Vocational Education Acts, 1930 to 1999,

(g) any other body established—

(i) by or under any enactment (other than the Companies Acts, 1963 to 2001), or

(ii) under the Companies Acts, 1963 to 2001, in pursuance of powers conferred by or under another enactment,

and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government, and subsidiary of any such body. Pt.3 S.24

(2) In this part a reference to land includes—

- (a) land provided or maintained by a statutory body primarily for the amenity or recreation of the public or any class of persons (including any park, open space, car park, playing field or other space provided for recreational, community or conservation purposes) or is land within the curtilage of any public building,
- (b) land held by trustees for the benefit of the public or any class of the public, and
- (c) land covered by water.

Extent of application (Part IIA), etc.

19B.—(1) This Part does not apply to any public road within the meaning of the Roads Act, 1993.

(2) This Part is without prejudice to any other enactment (including any other provision of this Act) or any rule of law.

Entry on and occupation of land or bringing onto or placing an object on land without consent.

19C.—(1) A person, without the duly given consent of the owner, shall not—

- (a) enter and occupy any land, or
- (b) bring onto or place on any land any object,

where such entry or occupation or the bringing onto or placing on the land of such object is likely to—

- (i) substantially damage the land,
- (ii) substantially and prejudicially affect any amenity in respect of the land,
- (iii) prevent persons entitled to use the land or any amenity in respect of the land from making reasonable use of the land or amenity,
- (iv) otherwise render the land or any amenity in respect of the land, or the lawful use of the land or any amenity in respect of the land, unsanitary or unsafe,

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- (v) substantially interfere with the land, any amenity in respect of the land, the lawful use of the land or any amenity in respect of the land.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

(3) Where a member of the Garda Síochána has reason to believe that a person is committing or has committed an offence under subsection (1) the member—

- (a) may demand of the person his or her name and address,
- (b) may direct the person to leave the land concerned and to remove from the land any object that belongs to the person or that is under his or her control, and
- (c) shall inform the person of the nature of the offence in respect of which it is suspected that person has been involved and the statutory consequences of failing to comply with a demand or direction under this subsection.

Refusing or failing to give name or address or failure to comply with direction.

19D.—Where a person—

- (a) refuses or fails to give his or her name and address to a member of the Garda Síochána when demanded under section 19C, or gives to the member a name or address that is false or misleading, or
- (b) fails to comply with a direction under that section,

he or she shall be guilty of an offence.

Arrest without warrant.

19E.—A member of the Garda Síochána may arrest without warrant a person—

- (a) who fails or refuses to give his or her name and address when demanded under section 19C(3)(a) or gives a name or address which the member has reasonable grounds for believing is false or misleading,
- (b) who fails to comply with a direction given under section 19C(3)(b), or
- (c) whom the member finds committing an offence under section 19C(1).

Removal, storage and disposal of object.

19F.—(1) Where a person fails to comply with a direction under section 19C(3)(b), a member of the Garda Síochána may remove or cause to be

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removed any object which the member has reason to believe was brought onto or placed on the land in contravention of section 19C(1) and may store or cause to be stored such object so removed. Pt.3 S.24

(2) Any person who obstructs or impedes or assists a person to obstruct or impede a member of the Garda Síochána in the execution of his or her duty under this section shall be guilty of an offence.

(3) Where an object has been removed under this section without the presence or knowledge of any person claiming to own, occupy, control or otherwise retain it, the Commissioner shall serve or cause to be served upon each such person whose name and address can be ascertained by reasonable enquiry, a notice informing the person where the object may be claimed and recovered, requiring the person to claim and recover it within one month of the date of service of the notice and informing him or her of the statutory consequences of his or her failure to do so.

(4) An object removed and stored under this section shall be given to a person claiming possession of the object if, but only if, he or she makes a declaration in writing that he or she is the owner of the object or is authorised by its owner to claim it or is, for a specified reason, otherwise entitled to possession of it and, at the discretion of the Commissioner, the person pays the amount of any expenditure reasonably incurred in removing and storing the object.

(5) The Commissioner may dispose of, or cause to be disposed of, an object removed and stored under this section if—

- (a) the owner of the object fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under subsection (3) was served on him or her, or
- (b) the name and address of the owner of the object cannot be ascertained by reasonable enquiry.

(6) Where the Commissioner becomes entitled to dispose of or cause to be disposed of an object under subsection (5) and the object is, in his or her opinion, capable of being sold, the Commissioner shall be entitled to sell or cause to be sold the object for the best price reasonably obtainable and upon doing so shall pay or cause to be paid to the person who was the owner of the object at the time of its removal, where the name and address of the owner can be ascertained by reasonable enquiry, a sum equal to the proceeds of such sale after deducting therefrom

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any expenditure reasonably incurred in its removal, storage and sale.

Penalties and proceedings.

19G.—(1) A person guilty of an offence under this Part shall be liable on summary conviction to a fine not exceeding €3,000 or to a term of imprisonment not exceeding one month or to both.

(2) In any proceedings for an offence under this Part it shall be presumed until the contrary is shown that consent under this Part was not given.

Jurisdiction of District Court.

19H.—(1) Notwithstanding any statutory provision or rule of law to the contrary, the jurisdiction of the District Court shall not, in summary proceedings in relation to an offence under this Part, be ousted by reason solely of a question of title to land being brought into issue.

(2) Where in summary proceedings in relation to an offence under this Part a question of title to land is brought into issue, the decision of a justice of the District Court in the proceedings or on the question shall not operate as an estoppel in, or a bar to, proceedings in any court in relation to the land.”.

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SCHEDULE 1

Section 4.

ENACTMENTS REPEALED

Number and Year (1)	Enactment (2)	Extent of Repeal (3)
No. 21 of 1966 No. 27 of 1979	Housing Act, 1966 Housing (Miscellaneous Provisions) Act, 1979	Section 11(1)(a) and (2) Sections 3 and 4
No. 28 of 1988 No. 33 of 1998	Housing Act, 1988 Housing (Traveller Accommodation) Act, 1998	Sections 24 and 25 Section 28

SCHEDULE 2

Section 17.

SCHEDULE TO HOUSING FINANCE AGENCY ACT, 1981

“SCHEDULE

Housing Acts, 1966 to 2002

Local Government (Sanitary Services) Acts, 1878 to 1995

Waste Management Acts, 1996 and 2001

Water Supplies Act, 1942”.

SCHEDULE 3

Section 23.

AMENDMENTS TO BUILDING SOCIETIES ACT, 1989

Number	Provision affected	Amendment
1.	Section 23	<p>(a) In subsection (1):</p> <p>(i) in paragraph (e), delete “and”;</p> <p>(ii) in paragraph (f), substitute “;” for “.”;</p> <p>(iii) insert the following after paragraph (f):</p> <p>“(g) commercial loans before the mortgage has been created and guarantees in lieu of such loans, and</p> <p>(h) loans secured by cash or in relation to which the society has rights of set-off against cash.”.</p> <p>(b) In subsection (2):</p> <p>(i) in paragraph (a), delete “and” where it occurs for the second time;</p> <p>(ii) in paragraph (b), substitute “, and” for “.”;</p> <p>(iii) insert the following after paragraph (b):</p> <p>“(c) any other conditions that the Bank considers appropriate.”.</p>

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Number	Provision affected	Amendment
2.	Section 25	<p>In subsection (1):</p> <p>(a) substitute the following for paragraphs (b) and (c):</p> <p>“(b) an assessment shall not be made by a person who is disqualified under this section from making an assessment,</p> <p>(c) where a borrower takes out a loan, secured against a particular security, for the first time—</p> <p>(i) in relation to such security, or</p> <p>(ii) with the building society concerned,</p> <p>a written report shall be made on the value of the security and any factors which may affect its value by a person who is competent to value and who is not disqualified under this section from making a report on the security concerned,</p> <p>(d) where any further loan is taken out by the same borrower secured against the same security, a building society shall establish such procedures as it considers appropriate for assessing the value of the security for the loan concerned.”;</p> <p>(b) delete “but the arrangements need not require each report to be made with a view to a particular assessment so long as it is adequate for the purpose of making the assessment”.</p>
3.	Section 29	<p>In subsection (2)(b), insert “other than guarantees referred to in section 23(1)(g)” after “indemnities,”.</p>
4.	Section 34	<p>In subsection (1), insert “and for such other purposes as the Central Bank may from time to time approve” after “business”.</p>
5.	Section 40	<p>In subsection (2), substitute the following for subparagraphs (i), (ii) and (iii):</p> <p>“(i) the carrying on of the ordinary business of a building society,</p> <p>(ii) the making of payments to which subparagraph (i) does not relate,</p> <p>(iii) the acquisition or disposal of other assets or liabilities,”.</p>
6.	Section 53	<p>(a) In subsection (8), substitute “Subject to subsection (8A), the provisions of this section apply” for “The provisions of this section apply”.</p> <p>(b) Insert the following after subsection (8):</p> <p>“(8A) Subsection (8) shall not apply to any transaction or arrangement made by a society for a person connected with a director of the society where—</p> <p>(a) it is entered into by the society in the ordinary course of its business, and</p>

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SCH.3

Number	Provision affected	Amendment
		<p>(b) its value is not greater, and its terms no more favourable, in respect of the person for whom it is made, than that or those which—</p> <p>(i) the society ordinarily offers, or</p> <p>(ii) it is reasonable to expect the society to have offered,</p> <p>to or in respect of a person of the same financial standing but unconnected with the society.”.</p>
7.	Section 57	<p>In subsection (2), substitute the following for paragraph (c):</p> <p>“(c) any loan, if the loan is made for or towards the purchase or improvement of a house used or to be used as the director’s only or main residence and provided that—</p> <p>(i) loans of that description and on similar terms are ordinarily made to employees of the society, and</p> <p>(ii) it is reasonable to expect the society to have offered a similar loan to or in respect of a person of the same financial standing as the director but unconnected with the society.”.</p>
8.	Section 59	<p>(a) Insert the following after subsection (1):</p> <p>“(1A) Subsection (1) shall not require a building society to keep in its register a copy of a transaction or arrangement made for a connected person if—</p> <p>(a) it is entered into by the society in the ordinary course of its business, and</p> <p>(b) its value is not greater, and its terms no more favourable, in respect of the person for whom it is made, than that or those which—</p> <p>(i) the society ordinarily offers, or</p> <p>(ii) it is reasonable to expect the society to have offered,</p> <p>to or in respect of a person of the same financial standing but unconnected with the society.”.</p> <p>(b) Insert the following after subsection (3):</p> <p>“(3A) Subsection (3) shall not require the inclusion in the statement of particulars of any transaction or arrangement if—</p> <p>(a) it is entered into by the society in the ordinary course of its business, and</p>

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SCH.3

Number	Provision affected	Amendment
		<p>(b) its value is not greater, and its terms no more favourable, in respect of the person for whom it is made, than that or those which—</p> <p>(i) the building society ordinarily offers, or</p> <p>(ii) it is reasonable to expect the building society to have offered,</p> <p>to or in respect of a person of the same financial standing but unconnected with the building society.”.</p>
9.	Section 77	<p>(a) In subsection (1)(c), substitute “a cash flow statement” for “a statement of the source and application of funds”.</p> <p>(b) In subsection (2), substitute “and in respect of the society and its subsidiaries, group accounts dealing respectively with the income and expenditure, the state of the affairs and the manner in which the society and its subsidiaries have been financed and their financial resources have been used, during that year” for “, group accounts dealing respectively with the income and expenditure, the state of the affairs and the source and application of the funds, of the society and the subsidiaries”.</p> <p>(c) In subsection (4), substitute “a cash flow statement” for “a statement of the source and application of funds”.</p> <p>(d) In subsection (6), substitute “the cash flow statement” for “the statement of the source and application of funds”.</p>
10.	Section 81	In subsection (2), substitute “the cash flow statement” for “the statement of the source and application of funds”.
11.	Section 88	In subsection (3)(e)(iii), substitute “in the case of the cash flow statement” for “in the case of the statement of source and application of funds”.
12.	Part XI	<p>Insert the following section after section 101A (inserted by the Central Bank Act, 1997):</p> <p>“Joint shareholders. 101B.—Where members of a society are entitled, under section 101A, to shares in the successor company, in the case of shares jointly held in the society—</p> <p>(a) the final share documentation which indicates ownership of the shares, and</p> <p>(b) documentation which gives an option to purchase further shares in the successor company,</p> <p>shall issue in the names of all members of that joint shareholding.”.</p>