



STATUTORY INSTRUMENTS.

**S.I. No. 82 of 2011**



HOUSING (SALE OF HOUSES TO LONG-STANDING TENANTS)  
REGULATIONS 2011

**(Prn. A11/0331)**

HOUSING (SALE OF HOUSES TO LONG-STANDING TENANTS)  
REGULATIONS 2011

I, MICHAEL FINNERAN, Minister of State at the Department of the Environment, Heritage and Local Government, in exercise of the powers conferred on me by sections 5 and 90(7) of the Housing Act, 1966 (No. 21 of 1966) (as adapted by the Environment and Local Government (Alteration of Name of Department and Title of Minister) Order 2003 (S.I. No. 233 of 2003)) and the Environment, Heritage and Local Government (Delegation of Ministerial Functions) Order 2011 (S.I. No. 65 of 2011), hereby make the following regulations:

*Citation*

1. These Regulations may be cited as the Housing (Sale of Houses to Long-standing Tenants) Regulations 2011.

*Interpretation*

2. In these Regulations—

“anti-social behaviour” has the meaning assigned to it by section 1 of the Housing (Miscellaneous Provisions) Act 1997 (No. 21 of 1997);

“civil partner” has the meaning assigned to it by section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24 of 2010);

“estate management” has the meaning assigned to it by section 1 of the Housing (Miscellaneous Provisions) Act 1997;

“market value” means the amount which, in the opinion of the housing authority that owns it, a dwelling, if sold on the open market in its existing state of repair and condition and not subject to the special conditions referred to in Regulation 11, might reasonably be expected to realise, reduced,

- (a) where improvements have been carried out to the dwelling other than by or on behalf of the authority, by the portion (if any) of such amount that, in the opinion of the authority, is attributable to such improvements, and
- (b) where the site of the dwelling was provided to the authority for a nominal sum, by the excess (if any) of the market value of the site over such sum;

“purchaser” includes, in relevant cases, joint purchasers;

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 1st March, 2011.*

“tenant” includes, in relevant cases, joint tenants;

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

“section 90” means section 90 of the Housing Act, 1966.

*Application of Regulations*

3. (1) These Regulations apply to the sale by a housing authority under section 90 of a dwelling (hereinafter referred to as “the dwelling”) of the class specified in paragraph (2) to the tenant in accordance with a purchase scheme adopted by the authority for the purposes of these Regulations (hereinafter referred to as a “2011 purchase scheme for long-standing tenants”).

(2) The class of dwelling referred to in paragraph (1) comprises dwellings let to tenants with reckonable tenancy in excess of 10 years, determined in accordance with Regulation 6.

*Period for receipt of purchase applications*

4. The period within which a housing authority shall receive an application by a tenant to purchase a dwelling under a 2011 purchase scheme for long-standing tenants shall end on 31 December 2011.

*Duration of purchase scheme*

5. A 2011 purchase scheme for long-standing tenants shall apply for the period ending on 31 December 2012.

*Reckonable period of tenancy*

6. (1) Subject to paragraphs (2) and (3), the reckonable period of tenancy shall be the aggregate, on the earlier of the date of the completion of the sale or 31 December 2011, of the following periods to such extent as they are not contemporaneous:

- (a) the period of the tenancy of the purchaser or his or her spouse or civil partner of the dwelling and of any other dwelling let by and not purchased from a housing authority,
- (b) the period (if any) during which the purchaser or his or her spouse or civil partner occupied the dwelling as a purchaser under the terms of a previous sale of the dwelling by the housing authority, and
- (c) where the purchaser or his or her spouse or civil partner—
  - (i) was, for a period of at least one year immediately preceding his or her appointment as tenant of any dwelling by a housing authority, bona fide resident in such dwelling as a member of the household of the preceding tenant, and
  - (ii) succeeded to the tenancy of such dwelling,

the period that would be reckonable in respect of such preceding tenant by virtue of this paragraph if such tenant were purchasing the particular dwelling to which the purchaser succeeded him or her as tenant.

(2) In the case where joint tenants have applied to purchase a dwelling, the longest period of a joint tenant in each category referred to in paragraph (1) shall be included in the reckonable period of tenancy for the purposes of this Regulation.

(3) The reckonable period of tenancy determined in accordance with paragraphs (1) and (2) shall be rounded up to the next number of complete years where such rounding up would not result in the addition of more than 6 months to such period.

*Purchase money for dwelling*

7. The purchase money for the dwelling shall be its market value reduced by the amount of the discount under Regulation 8 (hereinafter referred to as “the discount”) and the amount of the allowance, if any, under Regulation 9.

*Discount*

8. The discount shall be an amount equal to 3 per cent of the market value in respect of each year of the reckonable period of tenancy determined by the housing authority in accordance with Regulation 6, subject to a maximum of 45 per cent of the market value.

*Allowance for previous purchase*

9. An allowance shall be deducted from the market value, after the discount under Regulation 8 has been allowed, of an amount equal to the amount (if any) of capital paid to the housing authority by the purchaser or his or her spouse or civil partner in accordance with the terms of a previous sale of the dwelling to him or her or to his or her spouse or civil partner by the authority, provided that the authority did not repay such capital to the purchaser or his or her spouse or civil partner.

*Payment of purchase money*

10. (1) The purchase money for the dwelling shall be paid to the housing authority in full on the completion of the sale.

(2) Where any portion of the purchase money is being financed by way of a loan by a housing authority to the purchaser under section 11 of the Housing (Miscellaneous Provisions) Act, 1992, “paid” means, in relation to the said portion, the completion by the purchaser of a mortgage contract in respect of such loan.

*Special conditions*

11. The special conditions referred to in paragraph (b) and (c) of the definition of “special condition” in section 89 of the Housing Act, 1966 shall apply to the dwelling for a period of 20 years from the date of its vesting, subject, in the case of the special condition referred to in the said paragraph (c), to the provisions of subsections (9) and (12)(b) of section 90.

*Transfer order*

12. (1) The transfer order for the sale of a dwelling shall be in the form set out in the Schedule, unless the Minister consents to another form.

(2) A housing authority shall, on making a transfer order in respect of a dwelling, furnish a copy of the order to the purchaser.

*Classes of dwellings that may not be sold*

13. A housing authority shall not sell a dwelling which—

- (a) has been specifically designed for occupation by one or more than one elderly person;
- (b) is a separate and self-contained flat in a premises, divided into two or more flats, which would require arrangements for the upkeep and management of common areas, works or services other than by the purchaser;
- (c) has been specifically designed for occupation by travellers, where more than one such dwelling is provided on the land concerned
- (d) is a caravan, mobile home or a structure or a thing (whether on wheels or not) that is capable of being moved from one place to another (whether by towing, transport on a vehicle or trailer, or otherwise);
- (e) in the opinion of the housing authority, ought not to be sold for reasons of proper management of the authority's stock of housing accommodation or on account of the dwelling's structural condition; or
- (f) ought not to be sold for the time being on account of proposals the authority has to carry out reconstruction or improvement works under section 12 of the Housing Act 1988 or for the regeneration of the area concerned.

## SCHEDULE

FORM OF TRANSFER ORDER  
Section 90 of the Housing Act, 1966

## TRANSFER ORDER

of ..... [1]

1. In consideration of the payment of the purchase money of .....  
..... [2]  
which is hereby acknowledged, .....<sup>1</sup>

(hereinafter referred to as “the housing authority”), in exercise of the powers conferred on it by section 90 of the Housing Act 1966, and in accordance with its 2011 purchase scheme for long-standing tenants, HEREBY VESTS on the ..... day of ..... 20..... [3] the dwelling described in paragraph 5 of this Order (hereinafter referred to as “the dwelling”) in ..... [4] of ..... [5]

(hereinafter referred to as “the purchaser”, which expression includes, in relevant cases, joint purchasers) in fee simple, subject to paragraph 2 of this Order and in accordance with the conditions (if any) and the special conditions herein specified.

2. No warranty shall apply or be deemed to be implied as to the state of repair or condition or the fitness for human habitation of the dwelling.
3. (1) Subject to paragraph (2), the following special conditions shall apply to the dwelling for a period of twenty years from the date of vesting of the dwelling:
- (a) the dwelling shall, unless the housing authority otherwise allows, be occupied as a normal place of residence by the purchaser or the purchaser’s successor in title or by a member of the purchaser’s family or the family of his or her successor in title;
- (b) the dwelling or any part thereof shall not, without the consent of the housing authority, be mortgaged, charged or alienated otherwise than by devise or operation of law.
- (2) (a) Where the housing authority gives or has given consent to a mortgage in respect of a dwelling sold by them under section 90 of the Housing Act, 1966, the authority shall be regarded as having consented to any further or consolidated mortgage effected by the

<sup>1</sup>Insert name of housing authority.

<sup>2</sup>Insert amount of purchase money i.e. “€....., ([amount in words] euro)”.

<sup>3</sup>Insert appropriate date.

<sup>4</sup>Insert name(s) of purchaser(s).

<sup>5</sup>Insert current address of purchaser(s).

same mortgagor and to the exercise by the mortgagee of his powers under any such mortgage.

- (b) Where, in relation to a dwelling sold by a housing authority, the authority gives consent to a further sale or a mortgagee exercises his or her powers of sale under a mortgage, the special condition at paragraph 3(1)(b) of this Order shall, from the date of the sale, no longer apply.
- (c) Any attempted or purported mortgaging, charging or alienation in contravention of the special condition at paragraph 3(1)(b) of this Order shall be null and void against all persons; provided, however, that in any case where the consent of the housing authority is given after the attempted or purported mortgaging, charging or alienation, such consent shall, if the authority so directs, so operate as to validate with retrospective effect such attempted or purported mortgaging, charging or alienation.

4. A housing authority may, in respect of a dwelling to which the special condition at paragraph 3(1)(b) of this Order applies and without prejudice to any other power in that behalf, refuse to consent to a sale of the dwelling if the authority is of the opinion that—

- (i) the intended purchaser is not a person in need of housing, or
- (ii) the intended purchaser is or has been engaged in anti-social behaviour or the intended sale of the dwelling would not be in the interest of good estate management, or
- (iii) the intended sale would, if completed, leave the seller or any person who might reasonably be expected to reside with that person without adequate housing.

5. Description of dwelling (including address):

.....[<sup>6</sup>]

[The land the subject of the order is registered land and comprises the entire of the property described in Land Registry Folio ..... of the register County .....] [<sup>7</sup>]

[The land the subject of the order is registered land and does not comprise the entire of the property described in Land Registry Folio ..... of the register County ..... The dwelling comprises all that and those part of the property

<sup>6</sup>Where the dwelling description is by reference to a map or where a map is required, the map must be attached to the Order and must be either an Irish Transverse Mercator (ITM) map published by Ordnance Survey or a Land Registry ITM coordinate-referenced map or such other map that complies with Land Registry mapping regulations.

<sup>7</sup>Complete or delete, as appropriate.

comprised in the aforementioned Folio outlined in red and marked 'B' on the map<sup>[6]</sup> attached hereto.] <sup>[7]</sup>

[The land the subject of the order is unregistered land and is situate in:

Parish ....., Town ....., City .....  
or  
Townland ....., Barony ....., County .....<sup>[7]</sup>

GIVEN under my hand,  
24 February 2011.

MICHAEL FINNERAN,  
Minister of State at the Department of the Environment,  
Heritage and Local Government.



## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations set down the details of a fixed-term scheme for the purchase of local authority houses by long-standing local authority tenants, involving discounts up to 45 per cent off the market value for tenants with 15 years tenancy. Applications to purchase must be made to housing authorities by the end of 2011 and sales must be completed by the end of 2012, when the scheme expires.

These Regulations are made under sections 5 and 90(7) of the Housing Act, 1966. Section 5 of the 1966 Act has been amended by section 24 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992). Section 90 of the 1966 Act has been substituted by section 26 of the 1992 Act and subsequently amended by—

- section 14 of the Housing (Miscellaneous Provisions) Act 1997 (No. 21 of 1997)
- section 183 of the Local Government Act 2001 (No. 37 of 2001)
- section 15 of the Housing (Miscellaneous Provisions) Act 2002 (No. 9 of 2002)
- section 8 of, and Schedule 2, Part 1, Item 1 to, the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009).

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
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