



STATUTORY INSTRUMENTS.

S.I. No. 484 of 2015



HOUSING (SALE OF LOCAL AUTHORITY HOUSES) REGULATIONS
2015

HOUSING (SALE OF LOCAL AUTHORITY HOUSES) REGULATIONS
2015

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 11 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992) and sections 3 and 32 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009), as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 193 of 2011), and sections 4 and 30 of the Housing (Miscellaneous Provisions) Act 2014 (No. 21 of 2014), and, in so far as it relates to section 11 of the Housing (Miscellaneous Provisions) Act 1992, with the consent of the Minister for Public Expenditure and Reform (pursuant to the Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011)), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Housing (Sale of Local Authority Houses) Regulations 2015.

Commencement

2. These Regulations come into operation on 1 January 2016.

Interpretation

3. In these Regulations—

“Act of 1997” means the Housing (Miscellaneous Provisions) Act 1997 (No. 21 of 1997);

“Act of 2014” means the Housing (Miscellaneous Provisions) Act 2014 (No. 21 of 2014);

“anti-social behaviour” and “estate management” have the meanings given in section 1 of the Act of 1997;

“Part 3” means Part 3 of the Act of 2014;

“planning application” has the meaning assigned to it by section 2(1) of the Planning and Development Act 2000 (No. 30 of 2000);

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

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

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th November, 2015.*

“traveller” has the meaning assigned to it by section 2 of the Housing (Traveller Accommodation) Act 1998 (No. 33 of 1998).

Classes of houses excluded from sale

4. A housing authority shall not sell under Part 3 a house that—

- (a) has been specifically designed for occupation by one or more than one elderly person,
- (b) has been provided to facilitate the transition from institutional care to community-based living of persons with an enduring physical, sensory, mental health or intellectual impairment,
- (c) has been specifically designed for occupation by travellers, where more than one such house or 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) has been transferred to a planning authority in accordance with an agreement under section 96 of the Planning and Development Act 2000 (No. 30 of 2000), including a house provided on land or on a site so transferred, where the transfer is made for the purpose of providing housing referred to in section 94(4)(a)(i) of the said Act and the house is on the land the subject of the planning application to which the agreement relates,
- (f) in the opinion of the authority, should not be sold for reasons of proper management of the authority’s stock of housing accommodation or on account of the house’s structural condition, or
- (g) should not 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 in which the house is located.

Minimum period in receipt of social housing support

5. (1) Subject to paragraph (2), the minimum period for which a tenant is required to have been in receipt of social housing support for the purposes of making an application to purchase a house under Part 3 is one year on the date of the making of such application.

(2) Where a tenant referred to in paragraph (1) is a joint tenant, one of the tenants shall fulfil the requirement in paragraph (1).

Minimum annual income to apply to purchase

6. The minimum amount of annual income, determined in accordance with section 24 of the Act of 2014, that a tenant is required to have in order to apply to purchase a house under Part 3 is €15,000.

Purchase application

7. At the time of applying to purchase a house under Part 3, a tenant shall provide the following information to the housing authority:

- (a) the intended source of funding for the purchase money in respect of the house;
- (b) information sought by the authority to enable it to comply with section 24 of the Act of 2014 and any direction issued under that enactment;
- (c) (i) convictions in the 5-year period prior to the date of application for offences by any household member under sections 5, 6, 7, 14, 15 or 19 of the Criminal Justice (Public Order) Act 1994 (No. 2 of 1994), and
 - (ii) court orders made in the 5-year period prior to the date of application in respect of household members under—
 - (I) sections 3, 3A or 4 of the Act of 1997,
 - (II) section 257D of the Children Act 2001 (No. 24 of 2001), or
 - (III) section 115 of the Criminal Justice Act 2006 (No. 26 of 2006);
- (d) any other information, including updated information, that the housing authority reasonably requires for the purposes of the purchase application or the exercise of the authority's functions under section 14 of the Act of 1997 or section 23 of the Act of 2014.

Provision of additional information

8. A tenant applying to purchase a house under Part 3 shall, within 4 weeks of being requested to do so by the housing authority concerned, provide to that authority such additional information, including documents and other particulars, as the authority may reasonably require for the purpose of verifying information provided by the tenant in connection with an application to purchase.

Notice about offences

9. An application form for purchase of a house under Part 3 shall include the following statement:

“Section 32(7) of the Housing (Miscellaneous Provisions) Act 2009 and section 6 of the Fines Act 2010 provide that it is an offence, punishable on conviction by a class C fine (i.e. an amount not greater than €2,500 but greater than €1,000), for a person to knowingly provide false or misleading information or documents or to knowingly conceal any material fact in relation to the purchase of a house under Part 3 of the Housing (Miscellaneous Provisions) Act 2014. Section 32(8) of the 2009 Act provides that a housing authority may recover from a person convicted of an offence under section 32(7) any higher expenditure

that the authority incurred on the sale of a house due to reliance on false, misleading or undisclosed information.”

Purchase price

10. The purchase price for a house shall be determined as the greater of—
- (a) the relevant market value of the house, or
 - (b) 50 per cent of the estimated cost to the housing authority of providing, on the same site as the house being purchased and in accordance with prevailing national building standards and design policies for local authority housing, a house designed to accommodate a household in the same class that the house being purchased was designed for, and such estimated cost shall include, among other matters, the cost of site acquisition, legal and other professional fees.

Purchase money and charged period

11. Where a tenant’s annual income is less than or equal to €20,000, the purchase money for the house shall be determined by the housing authority as the monetary value of 40 per cent of the purchase price for the house and the charged period shall be 30 years from the vesting date.

12. Where a tenant’s annual income is in the range of €20,001 to €29,999, the purchase money for the house shall be determined by the housing authority as the monetary value of 50 per cent of the purchase price for the house and the charged period shall be 25 years from the vesting date.

13. Where a tenant’s annual income is equal to or in excess of €30,000, the purchase money for the house shall be determined by the housing authority as the monetary value of 60 per cent of the purchase price for the house and the charged period shall be 20 years from the vesting date.

Payment of purchase money

14. (1) The purchase money for the house shall be paid to the housing authority in full in advance of 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 (No. 18 of 1992), then "paid" in paragraph (1) means the completion by the purchaser of a mortgage contract in respect of such loan.

Combined transfer and charging order

15. (1) The transfer order and charging order for the sale of a house under Part 3 shall be in the combined form set out in Schedule 1.

(2) A housing authority shall, on making an order referred to in paragraph (1), give a copy of the order to the purchaser.

Qualification of valuers

16. A person who—

- (a) is denoted in the Property Services Register as having a licence in force to provide property services relating to the purchase or sale of land, and
- (b) has knowledge of and experience in the valuation of houses and land in the area concerned,

is suitably qualified to determine the market value or relevant market value of a house or site, as the case may be, for the purposes of Part 3.

Charging order statements

17. Statements given under sections 26(4) and 27(2)(b) of the Act of 2014 shall be in the appropriate form set out in Parts 1 and 2, respectively, of Schedule 2.

Amendment of Housing (Local Authority Loans) Regulations 2012

18. The Housing (Local Authority Loans) Regulations 2012 (S.I. No. 408 of 2012) are amended in Regulation 3 by inserting the following after paragraph (c):

“(ca) the sale of a house under Part 3 of the Housing (Miscellaneous Provisions) Act 2014 (No. 21 of 2014);”.

SCHEDULE 1

Regulation 15

FORM OF COMBINED TRANSFER AND CHARGING ORDER

Sections 25 and 26 of the Housing (Miscellaneous Provisions) Act 2014

TENANT PURCHASE COMBINED TRANSFER AND CHARGING ORDER

Vesting

1. In consideration of the payment of the purchase money of¹,
receipt of which is hereby acknowledged,

.....²
(hereinafter referred to as the “housing authority”), in exercise of the powers conferred on the housing authority by section 25 of the Housing (Miscellaneous Provisions) Act 2014 (hereinafter referred to as “the Act of 2014”), HEREBY VESTS on the.... day of..... 20..³ (hereinafter referred to as “the vesting date”) the house described in paragraph 6 of this Order (hereinafter referred to as “the house”) in

.....⁴
of.....⁵

(hereinafter referred to as “the purchaser”, which expression includes, in relevant cases, joint purchasers) in fee simple, subject to and in accordance with paragraph 5 of this Order and the terms and conditions set out in paragraph 4 of this Order.

Calculation of purchase money

2. The amount of the purchase money for the house is calculated as the monetary value of ..⁶ per cent of the purchase price of the house of.....⁷

Exclusion of warranty

3. Save as provided for by any enactment or regulations made thereunder, the sale of this house to the purchaser does not imply any warranty on the part of the housing authority in relation to the state of repair or condition of the dwelling or its fitness for human habitation.

¹Insert amount of purchase money, i.e. “€....., ([amount in words] euro)”.

²Insert name of housing authority.

³Insert vesting date.

⁴Insert name of purchaser.

⁵Insert current address of purchaser.

⁶Insert appropriate percentage, i.e. 60, 50 or 40. Note that, if discount is, say, 40 per cent, percentage to be entered here is 60 per cent.

⁷Insert amount of purchase price i.e. “€....., ([amount in words] euro)”.

Conditions of transfer order

4. The following terms and conditions shall apply during the charged period:
- (a) the house shall, unless the housing authority gives its prior written consent, be occupied as the normal place of residence of the purchaser or a member of the purchaser's household;
 - (b) the house or any part of it shall not, without the prior written consent of the housing authority, be sold, assigned, let or sublet or otherwise disposed of or mortgaged, charged or alienated, otherwise than by devise or operation of law;
 - (c) In the case of resale of the house—
 - (i) the purchaser shall, in accordance with section 29(1) of the Act of 2014, give prior written notice to the housing authority at its principal office of his or her intention to sell and the housing authority may purchase the house for a sum equivalent to the value of the uncharged share in the house, which is calculated by reducing the market value of the house on the date of resale by the outstanding charged share in the house on that date,
 - (ii) where the housing authority does not purchase the house, the authority may, in accordance with section 29(3) of the Act of 2014, refuse to consent to the sale to any person of the house where the authority is of the opinion that—
 - (I) the proposed sale price is less than the market value,
 - (II) the said person is or was engaged in anti-social behaviour (within the meaning of section 1 of the Housing (Miscellaneous Provisions) Act 1997 (“the Act of 1997”)), or the sale would not be in the interest of good estate management (within the meaning of the said section 1), or
 - (III) the intended sale would, if completed, leave the vendor or any person who might reasonably be expected to reside with him or her without adequate housing,
 - (iii) where the purchaser sells the house to a person other than the housing authority, the purchaser shall pay to the housing authority the value of the outstanding charged share in the house on the date of resale of the house, which amount is calculated by applying that share to the relevant market value of the house on that date and which amount shall be reduced to the extent necessary to avoid reducing the proceeds of the sale (disregarding solicitor and estate agent's costs and fees) below the purchase money;
 - (d) the purchaser shall not cause any nuisance or allow any person residing in the house to cause any nuisance or be guilty of, or permit,

any conduct likely to cause annoyance or disturbance to his or her neighbours and, without prejudice to the generality of the foregoing, shall not engage in, or allow any person residing in the house to engage in, anti-social behaviour;

- (e) the purchaser shall not knowingly permit a person, against whom an excluding order under section 3 of the Act of 1997 or an interim excluding order under section 4 of that Act is in force in respect of the house, to enter the house in breach of the excluding order or interim excluding order, as the case may be;
- (f) the purchaser shall keep the house and all parts of it and all fixtures and fittings in it, and all additions to it and the gardens, driveways and pathways (if any) in good order, repair and condition and maintain and uphold and, whenever necessary or for whatever reason, reconstruct and replace the same and keep the house and all parts thereof in first class decorative condition at all times;
- (g) the purchaser shall insure and keep insured the house against loss or damage to its full reinstatement value and pay all premiums and sums necessary for that purpose and, on demand, produce to the housing authority as the authority shall direct the policy or policies of such insurance and the receipt for each such payment.

Charge

5. (1) In accordance with section 26(1) of the Act of 2014, the house is charged in favour of the housing authority for the period of ..⁸ years commencing on the vesting date (which period is referred to in this Order as the “charged period”) in respect of an undivided percentage share (in this Order referred to as the “charged share”) of ..⁹ per cent in the house, which charged share is equivalent to the percentage by which the purchase price of the house was reduced for the purposes of calculating the purchase money payable by the purchaser.

(2) The housing authority agrees that a charge created by a holder of a licence under the Central Bank Act 1971, a building society or other financial institution shall rank in priority to the charge hereby created, provided that the authority’s agreement enables the purchaser to—

- (a) obtain an advance of moneys from such holder, society or institution for the purposes of purchasing the house,
- (b) refinance an existing advance of moneys from such holder, society or institution, or
- (c) obtain a further advance of moneys for any purpose from such holder, society or institution.

⁸Insert appropriate number of years, i.e. 30, 25 or 20.

⁹Insert appropriate percentage discount, viz. 40, 50 or 60.

(3) The charged share shall, in accordance with, and subject to, section 26(3) of the Act of 2014, be reduced annually on the anniversary of the vesting date by a proportion equivalent to 2 per cent of the total equity in the house (which proportion is hereinafter referred to as an “incremental release”).

(4) In accordance with section 27 of the Act of 2014, the housing authority may suspend an incremental release in respect of any year ending on the anniversary of the vesting date where the purchaser fails to comply with any of the conditions of this Order, in which case the purchaser shall, following the expiration of the charged period, pay to the housing authority the amount representing the value of the outstanding charged share in the house on the date of expiration of the charged period, calculated by applying that share to the relevant market value of the house on the date of the expiration of the charged period.

(5) In accordance with section 28 of the Act of 2014, the purchaser may, on the fifth or any subsequent anniversary of the vesting date during the charged period and with the consent of the housing authority, pay to the authority—

- (a) the value of the outstanding charged share in the house on such anniversary date, or
- (b) the value on such anniversary date of one or a multiple of one incremental release (other than an incremental release suspended by the authority under section 27(1) of the Act of 2014) in respect of the charged share of the housing authority in the house.

Description of the house

6.
..... 10

Sealing and signing

7. The official seal of the housing authority was affixed hereto in the presence of

.....
..... 11

Signed

Date

¹⁰Insert suitable description, including the address of the dwelling. The description should indicate whether the title is registered or unregistered and, if registered, the folio number of the dwelling. Where the dwelling description is by reference to a map, the map should be clearly identified and attached to the order.

¹¹Insert full name and office address of witness.

SCHEDULE 2*Regulation 17***FORM OF CHARGING ORDER STATEMENTS****Part 1****Section 26(4) Statement****Local authority charge in respect of tenant-purchased house****House Details**Purchaser:¹Address:²

The following is the current position as regards the charge in favour of the housing authority in the house specified above under section 26 of the Housing (Miscellaneous Provisions) Act 2014 (“the 2014 Act”):

Item	Percentage/Duration
Percentage charged share specified in the charging order	³
Accumulated per cent of incremental releases that have been applied to the charged share, including incremental releases applied under section 28(1)(b) of the 2014 Act	⁴
Accumulated per cent of incremental releases in respect of the charged share that have been suspended under section 27 of the 2014 Act	³
Percentage outstanding charged share	³
Remaining duration of the charged period	⁵

Signed

Housing authority

Date

¹Insert name of purchaser.²Insert address of purchaser.³Insert appropriate percentage.

⁴Insert appropriate percentage. Where no incremental releases have been applied to the charge because less than 5 years have passed since the vesting date, the following note should be added below the table: "In accordance with section 26(3)(b) of the 2014 Act, the reduction of the charged share for the period of 5 years from the vesting date is cumulative and is not applied until the expiration of that period, subject to compliance by the purchaser during that period with the conditions of the tenant purchase combined transfer and charging order."

Where the charge has been released in full, the following note should be added below the table: "As there is no outstanding charged share in favour of the housing authority in the house, the purchaser may, in accordance with section 26(13)(a) of the 2014 Act, request the housing authority to execute, at its expense, a deed of discharge in respect of the charging order. Please contact the housing authority if you wish to make such a request."

⁵Insert appropriate number of years.

Part 2**Section 27(2)(b) Statement****Local authority charge in respect of tenant-purchased house****House Details**Purchaser:¹Address:²

Under the terms of sections 26 and 27 of the Housing (Miscellaneous Provisions) Act 2014 (“the 2014 Act”), there is an outstanding charged share amounting to €.....³ in the house specified above in favour of the housing authority on⁴, the date of expiration of the charged period. This amount is calculated by applying the outstanding percentage charged share of the total equity in the house on the expiry of the charged period to the relevant market value of the house on that date.

The following is the position as regards the charge:

Item	Percentage/Amount €
Percentage charged share specified in the charging order	⁵
Accumulated per cent of incremental releases that have been applied to the charged share, including incremental releases applied under section 28(1)(b) of the 2014 Act	⁵
Accumulated per cent of incremental releases in respect of the charged share that have been suspended under section 27 of the 2014 Act	⁵
Percentage outstanding charged share on expiry of the charged period	⁵
Relevant market value of the house on expiry of the charged period	⁶

Section 21 of the 2014 Act defines “market value” to mean the price for which a house might reasonably be expected to be sold on the open market, in its existing state of repair and condition and not subject to the conditions specified in section 25(2) of the Act or a charging order. Section 21 also provides for reduction of the market value in cases where the site on which a house was built was provided to the housing authority by the purchaser for a nominal sum and where material improvements have been made to the house by the tenant or the purchaser that increase its market value.

Section 27(5) of the 2014 Act provides that, if the purchaser does not agree with the relevant market value of the house determined by the housing authority, the relevant market value shall be determined by an independent valuer nominated by the purchaser from a panel of suitably qualified persons established by

¹Insert name of purchaser.

²Insert address of purchaser.

³Insert appropriate amount.

⁴Insert appropriate date.

⁵Insert appropriate percentage.

⁶Insert appropriate amount.

the housing authority. Section 26(13)(b) excludes the housing authority from liability for any expenses incurred by the purchaser in obtaining an independent valuation of the house. If the purchaser does not agree with the relevant market value of the house determined by the housing authority, he or she should immediately contact the authority.

Section 27(3) of the 2014 Act provides that the purchaser shall pay the outstanding charge to the housing authority within 2 months of receipt of this statement. Under section 27(4) of that Act, if payment is not made within this period, the local authority may, without prejudice to any other power in that behalf, recover the total amount from the purchaser as a simple contract debt in any court of competent jurisdiction.

On payment of the outstanding charge to the housing authority, the purchaser may, under section 26(13)(a) of the 2014 Act, request the housing authority to execute, at the authority's expense, a deed of discharge in respect of the charging order.

Signed

Housing authority

Date

The Minister for Public Expenditure and Reform consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Public Expenditure and Reform,
13 October 2015.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
30 October 2015.

ALAN KELLY,
Minister for the Environment, Community and Local Government.

EXPLANATORY NOTE

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

These Regulations, which come into operation on 1 January 2016, prescribe the detailed terms and conditions of the new tenant purchase scheme for existing local authority houses under Part 3 of the Housing (Miscellaneous Provisions) Act 2014, including—

- the classes of dwellings excluded from sale,
- the minimum annual tenant income required in order to apply to purchase,
- the information that a tenant must supply when applying to purchase,
- the determination of the purchase price and the discount and the period for which a charging order shall apply, and
- the form of the combined transfer and charging order to be used by housing authorities.

The Regulations also amend the Housing (Local Authority Loans) Regulations 2012 (S.I. No. 408 of 2012) to enable authorities to advance loans to tenants for the purchase of houses under the new scheme.

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