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Acts Referred to

Acquisitions of Land (Assessment of Compensations) Act, 1919	9 & 10 Geo. 5., c 57
Borrowing Powers of Certain Bodies Act, 1996	1996, No. 22
Capital Acquisitions Tax Act, 1976	1976, No. 8
Financial Transactions of Certain Companies and Other Bodies Act, 1992	1992, No. 11
Housing Act, 1988	1988, No. 28
Housing Acts, 1966 to 2002	
Housing Finance Agency Act, 1981	1981, No. 37
Housing Finance Agency (Amendment) Act, 1985	1985, No. 20
Housing (Miscellaneous Provisions) Act, 1992	1992, No. 18
Housing (Miscellaneous Provisions) Act, 2002	2002, No. 9
Landlord and Tenant (Ground Rents) Act, 1978	1978, No. 7
National Treasury Management Agency Act, 1990	1990, No. 18
Planning and Development Act, 2000	2000, No. 30
Planning and Development Acts, 2000 and 2001	
Property Values (Arbitration and Appeals) Act, 1960	1960, No. 45



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**PLANNING AND DEVELOPMENT (AMENDMENT) ACT,
2002**

AN ACT TO AMEND AND EXTEND PART V OF THE PLANNING AND DEVELOPMENT ACT, 2000, AND CERTAIN OTHER PROVISIONS OF THAT ACT, TO AMEND CERTAIN OTHER ENACTMENTS AND TO PROVIDE FOR RELATED MATTERS. [24th December, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

1.—(1) This Act may be cited as the Planning and Development (Amendment) Act, 2002. Short title and collective citation.

(2) The Planning and Development Acts, 2000 and 2001, and *Parts 2* and *3* of this Act may be cited together as the Planning and Development Acts, 2000 to 2002.

2.—In this Act, “Principal Act” means the Planning and Development Act, 2000. Definition.

PART 2

Social and Affordable Housing

3.—The following section is substituted for section 96 of the Principal Act: Amendment of section 96 of Principal Act.

“Provision of social and affordable housing, etc.

96.—(1) Subject to subsection (13) and section 97, where a development plan objective requires that a specified percentage of any land zoned solely for residential use, or for a mixture of residential and other uses, be made available for housing referred to in section 94(4)(a), the provisions of this section shall apply to an application for permission for the development of houses on land to which such an objective applies, or where an application relates to a mixture of developments, to that part of the application which relates to the development of houses on such land, in addition to the provisions of section 34.

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(2) A planning authority, or the Board on appeal, shall require as a condition of a grant of permission that the applicant, or any other person with an interest in the land to which the application relates, enter into an agreement under this section with the planning authority, providing, in accordance with this section, for the matters referred to in paragraph (a) or (b) of subsection (3).

(3) (a) Subject to paragraph (b), an agreement under this section shall provide for the transfer to the planning authority of the ownership of such part or parts of the land which is subject to the application for permission as is or are specified by the agreement as being part or parts required to be reserved for the provision of housing referred to in section 94(4)(a).

(b) Instead of the transfer of land referred to in paragraph (a) and subject to paragraph (c) and the other provisions of this section, an agreement under this section may provide for—

(i) the building and transfer, on completion, to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on the land which is subject to the application for permission of such number and description as may be specified in the agreement,

(ii) the transfer of such number of fully or partially serviced sites on the land which is subject to the application for permission as the agreement may specify to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part,

(iii) the transfer to the planning authority of the ownership of any other land within the functional area of the planning authority,

(iv) the building and transfer, on completion, to the ownership of the planning authority, or to the ownership of persons nominated by the authority in accordance with this Part, of houses on land to which subparagraph (iii) applies of such number and description as may be specified in the agreement,

(v) the transfer of such number of fully or partially serviced sites on land to which subparagraph (iii) applies as the agreement may specify to the

ownership of the planning authority, Pt.2 S.3
or to the ownership of persons nomi-
nated by the authority in accordance
with this Part,

- (vi) a payment of such an amount as speci-
fied in the agreement to the planning
authority,
- (vii) a combination of a transfer of land
referred to in paragraph (a) (but
involving a lesser amount of such
land than if the agreement solely pro-
vided for a transfer under that
paragraph) and the doing of one or
more of the things referred to in the
preceding subparagraphs,
- (viii) a combination of the doing of 2 or
more of the things referred to in sub-
paragraphs (i) to (vi),

but, subject, in every case, to the provision
that is made under this paragraph
resulting in the aggregate monetary value
of the property or amounts or both, as the
case may be, transferred or paid by virtue
of the agreement being equivalent to the
monetary value of the land that the plan-
ning authority would receive if the agree-
ment solely provided for a transfer of land
under paragraph (a).

- (c) In considering whether to enter into an
agreement under paragraph (b), the plan-
ning authority shall consider each of the
following:
 - (i) whether such an agreement will con-
tribute effectively and efficiently to
the achievement of the objectives of
the housing strategy;
 - (ii) whether such an agreement will consti-
tute the best use of the resources
available to it to ensure an adequate
supply of housing and any financial
implications of the agreement for its
functions as a housing authority;
 - (iii) the need to counteract undue segre-
gation in housing between persons of
different social background in the
area of the authority;
 - (iv) whether such an agreement is in
accordance with the provisions of the
development plan;
 - (v) the time within which housing referred
to in section 94(4)(a) is likely to be
provided as a consequence of the
agreement.

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- (d) Where houses or sites are to be transferred to the planning authority in accordance with an agreement under paragraph (b), the price of such houses or sites shall be determined on the basis of—
- (i) the site cost of the houses or the cost of the sites (calculated in accordance with subsection (6)), and
 - (ii) the building and attributable development costs as agreed between the authority and the developer, including profit on the costs.
- (e) Where an agreement under this section provides for the transfer of land, houses or sites, the houses or sites or the land, whether in one or more parts, shall be identified in the agreement.
- (f) In so far as it is known at the time of the agreement, the planning authority shall indicate to the applicant its intention in relation to the provision of housing, including a description of the proposed houses, on the land or sites to be transferred in accordance with paragraph (a) or (b).
- (g) Nothing in this subsection shall be construed as requiring the applicant or any other person (other than the planning authority) to enter into an agreement under paragraph (b) instead of an agreement under paragraph (a).
- (h) For the purposes of an agreement under this subsection, the planning authority shall consider—
- (i) the proper planning and sustainable development of the area to which the application relates,
 - (ii) the housing strategy and the specific objectives of the development plan which relate to the implementation of the strategy,
 - (iii) the need to ensure the overall coherence of the development to which the application relates, where appropriate, and
 - (iv) the views of the applicant in relation to the impact of the agreement on the development.
- (j) Government guidelines on public procurement shall not apply to an agreement made under paragraph (a) or (b) except

in the case of an agreement which is subject to the requirements of Council Directive No. 93/37/EEC¹ on the co-ordination of procedures relating to the award of Public Works Contracts and any directive amending or replacing that directive. Pt.2 S.3

(4) An applicant for permission shall, when making an application to which this section applies, specify the manner in which he or she would propose to comply with a condition to which subsection (2) relates, were the planning authority to attach such a condition to any permission granted on foot of such application, and where the planning authority grants permission to the applicant subject to any such condition it shall have regard to any proposals so specified.

(5) In the case of a dispute in relation to any matter which may be the subject of an agreement under this section, other than a dispute relating to a matter that falls within subsection (7), the matter may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

(6) Where ownership of land is transferred to a planning authority pursuant to subsection (3), the planning authority shall, by way of compensation, pay to the owner of the land a sum equal to—

(a) (i) in the case of—

(I) land purchased by the applicant before 25 August 1999, or

(II) land purchased by the applicant pursuant to a legally enforceable agreement entered into before that date or in exercise of an option in writing to purchase the land granted or acquired before that date,

the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon (including, in circumstances where there is a mortgage on the land, interest paid in respect of the mortgage) as may be determined by the property arbitrator,

(ii) in the case of land the ownership of which was acquired by the applicant by way of a gift or inheritance taken (within the meaning of the Capital Acquisitions Tax Act, 1976) before 25 August 1999, a sum equal to the market value of the land on the valuation date (within the meaning of

¹ O.J. No. L 199/54, 9.7.1993

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that Act) estimated in accordance with section 15 of that Act,

(iii) in the case of—

(I) land purchased before 25 August 1999, or

(II) land purchased pursuant to a legally enforceable agreement to purchase the land entered into before that date, or in exercise of an option, in writing, to purchase the land granted or acquired before that date,

(where the applicant for permission is a mortgagee in possession of the land) the price paid for the land, or the price agreed to be paid for the land pursuant to the agreement or option, together with such sum in respect of interest thereon calculated from that date (including any interest accruing and not paid in respect of the mortgage) as may be determined by the property arbitrator,

or

(b) the value of the land calculated by reference to its existing use on the date of the transfer of ownership of the land to the planning authority concerned on the basis that on that date it would have been, and would thereafter have continued to be, unlawful to carry out any development in relation to that land other than exempted development,

whichever is the greater.

(7) (a) Subject to paragraph (b), a property arbitrator appointed under section 2 of the Property Values (Arbitration and Appeals) Act, 1960, shall (in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919), in default of agreement, fix the following where appropriate:

(i) the number and price of houses to be transferred under subsection (3)(b)(i), (iv), (vii) or (viii);

(ii) the number and price of sites to be transferred under subsection (3)(b)(ii), (v), (vii) or (viii);

(iii) the compensation payable under subsection (6) by a planning authority to the owner of land;

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(iv) the payment of an amount to the planning authority under subsection (3)(b)(vi), (vii) or (viii); and Pt.2 S.3

(v) the allowance to be made under section 99(3)(d)(i).

(b) For the purposes of paragraph (a), section 2(2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall not apply and the value of the land shall be calculated on the assumption that it was at that time and would remain unlawful to carry out any development in relation to the land other than exempted development.

(c) Section 187 shall apply to compensation payable under subsection (6).

(8) Where it is a condition of the grant of permission that an agreement be entered into in accordance with subsection (2) and, because of a dispute in respect of any matter relating to the terms of such an agreement, the agreement is not entered into before the expiration of 8 weeks from the date of the grant of permission, the applicant or any other person with an interest in the land to which the application relates may—

(a) if the dispute relates to a matter falling within subsection (5), refer the dispute under that subsection to the Board, or

(b) if the dispute relates to a matter falling within subsection (7), refer the dispute under that subsection to the property arbitrator,

and the Board or the property arbitrator, as may be appropriate, shall determine the matter as soon as practicable.

(9) (a) Where ownership of land or sites is transferred to a planning authority in accordance with subsection (3), the authority may—

(i) provide, or arrange for the provision of, houses on the land or sites for persons referred to in section 94(4)(a),

(ii) make land or sites available to those persons for the development of houses by them for their own occupation, or

(iii) make land or sites available to a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of houses on the land for persons referred to in section 94(4)(a).

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(b) Pending the provision of houses or sites in accordance with paragraph (a)(i), or the making available of land or sites in accordance with paragraph (a)(ii) or (iii), the planning authority shall maintain the land or sites in a manner which does not detract, and is not likely to detract, to a material degree from the amenity, character or appearance of land or houses in the neighbourhood of the land or sites.

(10) (a) Where a house is transferred to a planning authority or its nominees under subsection (3)(b), it shall be used for the housing of persons to whom section 94(4)(a) applies.

(b) A nominee of a planning authority may be a person referred to in section 94(4)(a) or a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of housing for persons referred to in section 94(4)(a).

(11) Notwithstanding any provision of this or any other enactment, if a planning authority becomes satisfied that land, a site or a house transferred to it under subsection (3) is no longer required for the purposes specified in subsection (9) or (10), it may use the land, site or house for another purpose connected with its functions or sell it for the best price reasonably obtainable and, in either case, it shall pay an amount equal to the market value of the land, site or house or the proceeds of the sale, as the case may be, into the separate account referred to in subsection (12).

(12) Any amount referred to in subsection (11) and any amount paid to a planning authority in accordance with subsection (3)(b)(vi), (vii) or (viii) shall be accounted for in a separate account and shall only be applied as capital for its functions under this Part or by a housing authority for its functions in relation to the provision of housing under the Housing Acts, 1966 to 2002.

(13) This section shall not apply to applications for permission for—

(a) development consisting of the provision of houses by a body standing approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the provision of housing for persons referred to in section 9(2) of the Housing Act, 1988, where such houses are to be made available for letting or sale,

(b) the conversion of an existing building or the reconstruction of a building to create one or more dwellings, provided that 50 per

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cent or more of the existing external fabric of the building is retained, Pt.2 S.3

- (c) the carrying out of works to an existing house, or
- (d) development of houses pursuant to an agreement under this section.

(14) A planning authority may, for the purposes of an agreement under this section, agree to sell, lease or exchange any land within its ownership to the applicant for permission, in accordance with section 211.

(15) In this section, ‘owner’ means—

- (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose (whether in possession or reversion) of the fee simple of the land, and
- (b) a person who, under a lease or agreement the unexpired term of which exceeds 5 years, holds or is entitled to the rents or profits of the land.’.

4.—The following sections are inserted after section 96 of the Principal Act:

“Restoration of normal limit of duration for certain permissions.

96A.—Sections 40 to 42 shall apply to permissions granted under Part IV of the Act of 1963 or under Part III of this Act pursuant to an application made after 25 August 1999 and to which this Part would have applied if the application for permission had been made after the inclusion of a housing strategy in the development plan under section 94(1).

Restoration of normal limit of duration for certain permissions, payment of levy, etc.

Levy to be paid in consideration of restoration effected by section 96A.

96B.—(1) In this section—

‘house’ means—

- (a) a building or part of a building which has been built for use as a dwelling, and
- (b) in the case of a block of apartments or other building or part of a building comprising 2 or more dwellings, each of those dwellings;

‘market value’, in relation to a house, means the price which the house might reasonably be expected to fetch on a sale in the open market;

‘relevant house’ means a house, permission for which would have ceased to have effect or expired but for section 4 of the *Planning and Development (Amendment) Act, 2002*.

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(2) There shall be deemed to be attached to a permission referred to in section 96A a condition providing that there shall, in accordance with subsections (3) to (5), be paid to the planning authority an amount in respect of—

(a) unless paragraph (b) applies as respects the particular house, the first disposal of each relevant house built on foot of that permission,

(b) if, as respects a particular relevant house—

(i) it is built on foot of that permission by a person for his or her own occupation, or

(ii) it is built on foot of that permission for a person ('the first-mentioned person') by another for the first-mentioned person's occupation and that other person is not the person from whom the first-mentioned person acquires his or her interest in the land on which the house is built,

the completion of the building of that relevant house on foot of that permission.

(3) In subsection (2) 'first disposal', in relation to a relevant house, means whichever of the following first occurs after the house is built—

(a) the sale, at arm's length, of the house (whether the agreement for that sale is entered into before or after the building of the house is completed),

(b) the granting of a tenancy or lease in respect of the house for the purpose of the grantee of the tenancy or lease occupying the house, or

(c) the sale, otherwise than at arm's length, of the house (whether the agreement for that sale is entered into before or after the building of the house is completed) or the transfer of the beneficial interest in the house.

(4) The amount of the payment referred to in subsection (2) shall be—

(a) where the disposal of the house concerned falls within subsection (3)(a)—

(i) if the consideration paid to the vendor by the purchaser equals or exceeds €270,000, an amount equal to 1 per cent of the consideration so paid,

(ii) if the consideration paid to the vendor by the purchaser is less than €270,000,

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an amount equal to 0.5 per cent of Pt.2 S.4
the consideration so paid,

(b) where either—

- (i) the disposal of the house concerned falls within subsection (3)(b) or (c), or
- (ii) subsection (2)(b) applies as respects the house concerned,

an amount equal to—

- (I) if the market value of the house at the time of the disposal or upon the completion of its building, equals or exceeds €270,000, 1 per cent of the market value of the house at the time of that disposal or upon that completion,
- (II) if the market value of the house at the time of the disposal or upon such completion is less than €270,000, 0.5 per cent of the market value of the house at the time of that disposal or upon such completion.

(5) The payment referred to in subsection (2) shall be made at such time as the planning authority specifies (and the time that is so specified may be before the date on which the disposal concerned of the relevant house is effected).

(6) Any amount paid to a planning authority in accordance with this section shall be accounted for in a separate account and shall only be applied as capital for its functions under this Part or by a housing authority for its functions in relation to the provision of housing under the Housing Acts, 1966 to 2002.

(7) (a) The planning authority shall issue, in respect of the payment to it of an amount (being the amount required to be paid under this section in a particular case), a receipt, in the prescribed form, to the payer stating that the liability for payment of that amount in the case concerned has been discharged.

(b) A document purporting to be a receipt issued under this subsection by the planning authority shall be *prima facie* evidence that the liability for the payment of the amount to which it relates has been discharged.

(8) Any of the following—

(a) a provision of a contract of sale of a house,

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- (b) a provision of a contract for the building for a person of a house for his or her occupation,
- (c) a covenant or other provision of a conveyance of an interest in a house,
- (d) a covenant or other provision of a lease or tenancy agreement in respect of a house,
- (e) a provision of any other agreement (whether oral or in writing),

which purports to require the purchaser, the person referred to in paragraph (b), the grantee of the interest or the grantee of the lease or tenancy, as the case may be, to pay the amount referred to in subsection (2) or to indemnify another in respect of that other's paying or liability to pay that amount shall be void.

(9) Any amount paid by the purchaser, person referred to in subsection (8)(b) or grantee of an interest or a lease or tenancy, pursuant to a provision or covenant referred to in subsection (8), may be recovered by him or her from the person to whom it is paid as a simple contract debt in any court of competent jurisdiction.

(10) This section shall not apply to permissions for development consisting of the provision of 4 or less houses, or for housing on land of 0.1 hectares or less.

(11) For the avoidance of doubt, in this section 'sale', in relation to a house, includes any transaction or series of transactions whereby the vesting by the builder in another person of the interest in the land on which the house is built by the builder is effected separately from the conclusion of the arrangements under which the house is built for that other person by the builder."

Amendment of section 97 of Principal Act.

5.—Section 97(3)(b) of the Principal Act is amended by substituting "0.1 hectares" for "0.2 hectares".

PART 3

Miscellaneous Amendments of Principal Act

Amendment of section 2 of Principal Act.

6.—Section 2(1) of the Principal Act is amended by—

- (a) inserting after paragraph (f) of the definition of "party to an appeal or referral" the following paragraph:

"(ff) in the case of a referral under section 57(8), the person making the referral,"

and

- (b) substituting the following definition for the definition of "referral":

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- (ii) A notice under subparagraph (i) shall state that—
 - (I) a copy of the proposed variation or modification of the proposal may be inspected at a stated place and at stated times during a stated period of not less than 4 weeks (and the copy shall be kept available for inspection accordingly), and
 - (II) written submissions or observations with respect to the proposed variation or modification of the proposal made to the planning authority within the stated period shall be taken into consideration before the making of any variation or modification.
- (f) (i) Not later than 8 weeks after giving notice under paragraph (e), the manager of a planning authority shall prepare a report on any submissions or observations received pursuant to a notice under that paragraph and submit the report to the members of the authority for their consideration.
- (ii) A report under subparagraph (i) shall—
 - (I) list the persons who made submissions or observations under paragraph (e),
 - (II) summarise the issues raised by the persons in the submissions or observations,
 - (III) contain the opinion of the manager in relation to the issues raised, and his or her recommendations in relation to the proposed variation or modification to the proposal, including any amendment to that proposed variation or modification he or she considers appropriate, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.
- (g) (i) The members of a planning authority shall consider the proposed variation or modification of the proposal and the report of the manager under paragraph (f).
- (ii) Following consideration of the manager's report under subparagraph (i), the local area plan shall be deemed to be made or amended, as appropriate, with the variation or modification proposed by the members of the planning authority or, if different from that variation or modification, the variation or modification as recommended in the manager's report under subparagraph (i), 6 weeks after the furnishing of the report to all the members of the authority, unless, where such a recommendation for a different variation or modification is so made, the planning authority, by resolution, decides to make or amend the plan otherwise than in accordance with that recommendation (and the variation or modification the members of the authority so decide upon shall be the original variation or modification proposed by

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them, subject to such amendment of it as they consider appropriate). Pt.3 S.9

(h) The requirements of paragraphs (e) to (g) shall not apply in relation to an amendment made in accordance with paragraph (g)(ii).

(i) When performing their functions under this subsection, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.”.

10.—Section 37 of the Principal Act is amended—

Amendment of section 37 of Principal Act.

(a) in paragraph (a) of subsection (6), by substituting “in respect of which a decision to grant permission has been made” for “in respect of which permission has been granted”,

(b) in paragraph (d)(i) of subsection (6), by substituting “in respect of which a decision to grant permission has been made” for “for which permission has been granted”.

11.—Section 49(7)(c) of the Principal Act is amended by substituting “waste water” for “waste, water”.

Amendment of section 49(7) of Principal Act.

12.—Section 50 of the Principal Act is amended—

Amendment of section 50 of Principal Act.

(a) by substituting the following subsection for subsection (2):

“(2) A person shall not question the validity of—

(a) a decision of a planning or local authority, as appropriate—

(i) on an application for a permission under this Part,

(ii) under section 179, or

(iii) in accordance with section 216,

(b) a decision of the Board—

(i) on any appeal or referral,

(ii) under section 175, or

(iii) in the performance by it of a function transferred under Part XIV,

otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) (“the Order”).”,

(b) in subparagraph (ii) of subsection (4)(a), by substituting “paragraph (a)(ii) or (iii)” for “paragraph (a)(ii)” and “sent or published, as appropriate” for “published”,

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(c) in subparagraph (i) of subsection (4)(b), by substituting “planning or local authority” for “planning authority”, and

(d) in subparagraph (i)(V) of subsection (4)(c), by substituting “in the case of a decision of a local authority or the Board in the performance by it of a function transferred under Part XIV,” for “in the case of a decision of the Board under Part XIV,”.

Amendment of section 57 of Principal Act.

13.—Section 57 of the Principal Act is amended—

(a) in subsection (4), by inserting “or the Board” after “a planning authority”,

(b) in subsection (5), by inserting “or the Board” after “the planning authority” in each place where it occurs,

(c) by substituting the following subsections for subsections (8) and (9):

“(8) Any person to whom a declaration under subsection (3), or a declaration reviewed under subsection (7) has been issued, may, on payment to the Board of such fee as may be prescribed, refer the declaration for review by the Board within 4 weeks from the date of the issuing of the declaration, or the declaration as reviewed, as the case may be.

(9) A planning authority shall cause—

(a) the details of any declaration issued by that authority, or of a decision by the Board on a referral, to be entered on the register kept by the authority under section 7, and

(b) a copy of the declaration or decision, as appropriate, to be made available for inspection by members of the public, during office hours, at the office of the authority, following the issue of the declaration or decision.”.

Amendment of section 239 of Principal Act.

14.—Section 239 of the Principal Act is amended by inserting the following subsection after subsection (6):

“(6A) Regulations under this section may be made to any extent by reference to a document published by or on behalf of the Minister.”.

Amendment of section 262(4) of Principal Act.

15.—Section 262(4) of the Principal Act is amended by substituting “181(1)(a)” for “181(1)”.

PART 4

Miscellaneous Amendments of Other Enactments

16.—Section 2 of the Housing (Miscellaneous Provisions) Act, 1992, is amended by substituting the following subsection for subsection (1):

Amendment of section 2 of Housing (Miscellaneous Provisions) Act, 1992.

“(1) (a) Notwithstanding the provisions of the Landlord and Tenant (Ground Rents) Act, 1978, a person (including a housing authority and a body standing approved of by the Minister under section 6 (referred to in this Act as ‘an approved body’)) may grant a shared ownership lease of a house (in this Act referred to as a ‘shared ownership lease’), being a lease—

(i) granted for a term of more than 20 years but less than 100 years,

(ii) granted on payment to the lessor of a sum of money being—

(I) in the case of a lease granted by an approved body, not less than 40 per cent and not more than 50 per cent,

(II) in any other case, not less than 25 per cent and not more than 75 per cent,

of the market value of the house, and

(iii) which, in the case of a lease other than a lease granted by an approved body, provides for the right of the lessee to purchase, in one or more transactions, the interest of the lessor in the demised house at a consideration determined in accordance with the provisions of the lease.

(b) No rule of law and nothing in this Act shall operate to confer or be construed as conferring an entitlement on a lessee who is granted a shared ownership lease of a house by an approved body to purchase the interest of the approved body in the house.”.

17.—Section 3 of the Housing (Miscellaneous Provisions) Act, 1992, is amended—

Amendment of section 3 of Housing (Miscellaneous Provisions) Act, 1992.

(a) by substituting the following subsections for subsections (1) to (4):

“(1) The granting of a shared ownership lease by—

(a) a housing authority of a house provided by them under section 56 of the Principal Act, or

(b) an approved body of a house provided by it with assistance under section 6,

shall be subject to such regulations as may be made by the Minister for the purposes of this section.

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(2) Every shared ownership lease granted by a housing authority or an approved body and every assurance of the authority's or body's interest in accordance with such a lease shall be expressed and shall operate to vest, on the date specified therein, the interest so specified, subject to such terms and conditions as may be so specified.

(3) Where a housing authority or an approved body has granted a shared ownership lease, then, subject to such regulations as may be made by the Minister, the authority or the approved body, as the case may be, may charge a rent or other payment for the tenancy or occupation of the house concerned.

(4) (a) Where a loan, being a loan made otherwise than by a housing authority, to enable a lessee to make a payment in respect of a shared ownership lease granted by a housing authority is secured by way of mortgage, the authority may enter into and carry out an agreement with the mortgagee.

(b) Where a loan to enable a lessee to make a payment in respect of a shared ownership lease granted by an approved body is secured by way of mortgage, the approved body may enter into and carry out an agreement with the mortgagee.”,

(b) in subsection (5)—

(i) by substituting the following paragraph for paragraph (i):

“(i) in the case of a house leased to a person by a housing authority under a shared ownership lease, the purchase by the lessee of the interest of the housing authority in the house and the determination of the sums of money payable therefor;”;

and

(ii) by substituting the following paragraph for paragraph (k):

“(k) prohibiting the disposal, mortgaging, charging or alienation of a house, otherwise than by devise or operation of law, save with the consent of the housing authority or the approved body, as the case may be.”.

Amendment of section 4 of Housing (Miscellaneous Provisions) Act, 1992.

18.—Section 4(1)(b) of the Housing (Miscellaneous Provisions) Act, 1992, is amended by substituting the following subparagraph for subparagraph (i):

“(i) pay a subsidy to a housing authority towards the rent of a house leased to a person under a shared ownership lease by the authority or an approved body, as the case may be,”.

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(Amendment) Act, 2002.

19.—Section 6 of the Housing (Miscellaneous Provisions) Act, 2002, is amended by inserting the following subsections after subsection (1):

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Amendment of
section 6 of
Housing
(Miscellaneous
Provisions) Act,
2002.

“(1A) A body standing approved of for the purposes of section 6 of the Act of 1992 may acquire, build or cause to be built houses for sale by the body in accordance with this Part.

(1B) (a) References to a housing authority in this Part, other than in sections 7, 8, 10(3)(a)(i), 10(3)(d)(ii)(II) and 10(4)(a), include a body standing approved of for the purposes of section 6 of the Act of 1992.

(b) The reference in section 10(4)(b) to the sale of a house, where a shared ownership lease on such house is granted by a body referred to in subsection (1A), includes the sale of the interest of the lessee in the house.”.

20.—The following section is substituted for section 10A (inserted by the Housing (Miscellaneous Provisions) Act, 2002) of the Housing Finance Agency Act, 1981:

Amendment of
section 10A of the
Housing Finance
Agency Act, 1981.

“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 from time to time request the National Treasury Management Agency to perform, on its behalf, all or any part of the functions of the Agency under—

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

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

(iii) section 2 of the Financial Transactions of Certain Companies and Other Bodies Act, 1992.

(b) The Agency may from time to time, subject to the prior consent of the Minister for Finance, revoke or amend a request made under paragraph (a), but without prejudice to the validity of anything done previously on foot of that request in the terms that it stood immediately before that revocation or amendment.

(c) For so long as a request made under paragraph (a) of this subsection has effect, the National Treasury Management Agency shall, subject to paragraph (d), perform on behalf of the Agency the functions specified in the request.

(d) The functions of the Agency specified in any request made under paragraph (a) of this subsection shall be performed by the National Treasury Management Agency on behalf of the Agency subject to such

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terms and conditions (including any amendment to such terms and conditions) as the Agency and the National Treasury Management Agency may from time to time agree or, in the absence of any such agreement, as the Minister for Finance may determine after consultation with the Minister.

(3) The Minister for Finance may from time to time revoke, in whole or in part, any consent given under subsection (2) of this section, but without prejudice to the validity of anything done previously on foot of that consent in the terms that it stood immediately before that revocation.”.

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