



STATUTORY INSTRUMENTS.

S.I. No. 252 of 2010



HOUSING (INCREMENTAL PURCHASE) REGULATIONS 2010

(Prn. A10/0769)

HOUSING (INCREMENTAL PURCHASE) REGULATIONS 2010

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 3, 32(6) and 49 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009) and the Environment, Heritage and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2009 (S.I. No. 407 of 2009), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Housing (Incremental Purchase) Regulations 2010.

Commencement

2. These Regulations come into operation on 14 June 2010.

Interpretation

3. In these regulations—

“PPS Number”, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005);

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

“the Act of 2009” means the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009); and

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

Dwelling classes

4. An incremental purchase arrangement may apply to all classes of dwelling that comply with the provisions of section 44 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009), other than—

- (a) dwellings provided by a housing authority that were not, at the time of allocation to a household under an allocation scheme, reserved for incremental purchase by order made by the manager under section 151(1) of the Local Government Act 2001 (No. 37 of 2001);
- (b) dwellings provided by an approved body that were not, at the time of allocation to a household, reserved for sale under an incremental

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th June, 2010.*

purchase arrangement in accordance with section 45(4) of the Act of 2009;

- (c) dwellings that have been specifically designed for occupation by one or more than one elderly person;
- (d) dwellings that have been specifically designed for occupation by travellers, where more than one such dwelling is provided on the land concerned;
- (e) dwellings transferred to planning authorities in accordance with agreements under section 96 of the Planning and Development Act 2000, including dwellings provided on land or on sites 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 dwellings are on the land the subject of the planning application to which the agreement relates; and
- (f) caravans, mobile homes or structures or things (whether on wheels or not) that are capable of being moved from one place to another (whether by towing, transport on a vehicle or trailer, or otherwise).

Exclusion from incremental purchase

5. A housing authority or approved body may not sell a dwelling under an incremental purchase arrangement to a person who previously purchased a dwelling from a housing authority or an approved body under section 90 of the Housing Act of 1966 (No. 21 of 1966) or Parts 3 or 4 of the Act of 2009.

Application to purchase

6. A household shall, at the time of applying to purchase a dwelling under an incremental purchase arrangement, provide the following information to the housing authority or approved body concerned—

- (a) in respect of each household member:
 - (i) surname and forename,
 - (ii) sex, date of birth and marital status (where applicable),
 - (iii) PPS Number,
 - (iv) current address, and
 - (v) employment status,
- (b) in respect of individual household members, as appropriate:
 - (i) employment type and occupation,
 - (ii) employer and place of employment,

- (iii) annual or weekly gross income and annual or weekly deductions from gross income,
 - (iv) convictions in the 5-year period prior to the date of application for offences under—
 - (I) sections 5, 6, 7, 14, 15 or 19 of the Criminal Justice (Public Order) Act 1994 (No. 2 of 1994),
 - (II) section 117 of the Criminal Justice Act 2006 (No. 26 of 2006), or
 - (III) section 257F of the Children Act 2001 (No. 24 of 2001), and
 - (v) instances in the 3-year period prior to the date of application where arrears of rent were due to the housing authority concerned in respect of any dwelling or site let to the individual by the authority;
- (c) in respect of the accommodation currently occupied by the household:
- (i) nature of the tenure,
 - (ii) name and address of the landlord or agent,
 - (iii) weekly rent payable, and
 - (iv) confirmation of whether rent supplement is payable to the household in respect of the accommodation and, if so, the amount of weekly rent contribution payable by the household; and
- (d) any other information requested by the housing authority or approved body.

7. A household shall, within 4 weeks of being requested to do so by the housing authority or approved body concerned, provide to that authority or body additional information, including documents and other particulars, sought for the purpose of verifying information provided by the household in connection with an application to purchase.

8. An application form for purchase of a dwelling from a housing authority under an incremental purchase arrangement shall include the following statement:

“Section 32(7) of the Housing (Miscellaneous Provisions) Act 2009 provides that it is an offence, punishable on conviction by a maximum fine of €2,000, 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 dwelling under an incremental purchase arrangement. 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 it incurred on the sale of the dwelling due to reliance on false, misleading or undisclosed information.”

Household income

9. The income of an eligible household shall be calculated for the purposes of these Regulations in accordance with written guidance issued by the Minister to housing authorities (in these Regulations referred to as a “household means policy”).

10. A housing authority or approved body may enter into an incremental purchase arrangement with an eligible household that has an income equal to or in excess of €15,000, provided that the household, prior to the completion of the sale, gives to the authority or body concerned written notice of loan approval or otherwise establishes, to the satisfaction of the authority or body concerned, its capacity to pay the purchase money for the dwelling.

Purchase price

11. The purchase price for a dwelling shall be determined as the total cost to the housing authority or approved body of providing the dwelling, comprising site acquisition costs and any related interest charges, building costs and attributable development costs.

Purchase money and minimum charging period

12. Where an eligible household has an income less than or equal to €20,000, the purchase money for the dwelling shall be determined by the housing authority or approved body as the monetary value of 40% of the purchase price for the dwelling and the minimum charged period shall be 30 years from the date of the combined transfer and charging order.

13. Where an eligible household has an income within the range of €20,001 to €29,999 (both amounts being included in the range), the purchase money for the dwelling shall be determined by the housing authority or approved body as the monetary value of 50% of the purchase price for the dwelling and the minimum charged period shall be 25 years from the date of the combined transfer and charging order.

14. Where an eligible household has a household income equal to or in excess of €30,000, the purchase money for the dwelling shall be determined by the housing authority or approved body as the monetary value of 60% of the purchase price for the dwelling and the minimum charged period shall be 20 years from the date of the combined transfer and charging order.

Combined transfer and charging order

15. The transfer order and charging order for the sale of a dwelling under an incremental purchase arrangement shall be in the combined form set out in Schedule 1.

Charging order statements

16. Statements given under sections 46(5) and 47(3)(b) of the 2009 Act shall be in the appropriate form set out in Schedule 2.

Qualifications of valuers

17. A person who—

- (a) holds an auctioneer’s licence or a house agent’s licence under the Auctioneers and House Agents Act 1947 (No. 10 of 1947), and
- (b) has knowledge of and experience in the valuation of dwellings or sites in a particular area,

is suitably qualified, for the purposes of this Part, to determine the market value or current market value of a dwelling or site, as the case may be, in that area.

Revocation

18. The Housing (Incremental Purchase) Regulations (S.I. No. 562 of 2009) are revoked.

Amendment

19. The Housing (Local Authority Loans) Regulations 2009 (S.I. No. 145 of 2009) are amended in Regulation 3 by inserting the following after paragraph (a):

“(aa) the sale of a dwelling under section 45 of the Act of 2009:”.

SCHEDULE 1

Regulation 15

FORM OF COMBINED TRANSFER AND CHARGING ORDER

INCREMENTAL PURCHASE COMBINED TRANSFER AND CHARGING ORDER OF

.....¹

1. Vesting

In consideration of the payment of the purchase money of

.....²

which is hereby acknowledged,

.....¹

(hereinafter referred to as “the vendor”), in exercise of the powers conferred on it by section 45 of the Housing (Miscellaneous Provisions) Act 2009 (hereinafter referred to as “the Act of 2009”), **HEREBY VESTS**

on the day of20....³

¹ Insert name of housing authority or approved body, as appropriate.
² Insert amount of purchase money i.e. “€....., ([amount in words] euro)”.
³ Insert appropriate date.

the dwelling described in paragraph 6 of this Order (hereinafter referred to as “the dwelling”) in

.....⁴

(hereinafter referred to as “the purchaser”)

of⁵

in fee simple in accordance with the conditions herein specified.

2. Calculation of purchase money

The amount of the purchase money for the dwelling is calculated as the monetary value of%⁶ of the purchase price of the dwelling of

.....⁷

3. Exclusion of warranty

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

4. Conditions

The following terms and conditions shall apply during the charged period:

- (a) where the purchaser sells the dwelling to a person other than a housing authority or approved body during the charged period, the purchaser(s) shall pay to the authority or approved body, as appropriate, an amount calculated in accordance with section 48(5) or (6) of the Act of 2009;
- (b) where the housing authority or approved body suspends the reduction of the charged share under section 47(1) of the Act of 2009, the purchaser shall, following the expiration of the charged period, pay to the authority or approved body, as appropriate, an amount calculated in accordance with section 47(3)(b) of that Act;
- (c) the dwelling shall, unless the vendor gives its prior written consent, be occupied as the normal place of residence of the purchaser or a member of the purchaser’s household;

⁴ Insert name of purchaser.

⁵ Insert current address of purchaser.

⁶ Insert appropriate percentage, i.e. 60%, 50% or 40%.

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

- (d) the dwelling or any part thereof shall not, without the prior written consent of the vendor, be sold, assigned, let or sublet or otherwise disposed of or mortgaged, charged or alienated, otherwise than by devise or operation of law;
- (e) the purchaser shall not, without the prior written consent of the vendor, make material improvements to the dwelling;
- (f) the purchaser shall keep the dwelling and all parts thereof and all fixtures and fittings therein, and all additions thereto 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 dwelling and all parts thereof in first class decorative condition at all times; and
- (g) the purchaser shall insure and keep insured the dwelling 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 vendor as it shall direct the policy or policies of such insurance and the receipt for each such payment.

5. Charge

5.1 The dwelling is charged in favour of the vendor with the charge referred to in section 46(2) of the Act of 2009, which charge shall be reduced in accordance with sections 46 and 47 of the said Act.

5.2 The charged period is the period of⁸ years commencing on the date of the combined transfer and charging order.

5.3 The vendor consents to a mortgage or charge created by a holder of a licence under the Central Bank Act 1971, a building society or other financial institution, ranking in priority to the charge hereby created to the extent to which the former mortgage or charge secures an advance of moneys by such holder, society or institution for the purposes of purchasing the dwelling, or refinancing an existing advance of moneys purpose from such holder, society or institution or obtaining a further advance of moneys for any purpose from such holder, society or institution.

6. Description of dwelling

.....

.....⁹

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

⁹ Insert 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.

7. Sealing and signing

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

.....¹⁰

.....

Signed.....

Date.....

SCHEDULE 2

Regulation 16

FORM OF CHARGING ORDER STATEMENTS

Part 1: Section 46(5) statements

A. Statement where less than 5 years of charged period have passed

Dwelling Details

Purchaser:

Address:

In accordance with section 46(5) of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009), no incremental releases have been applied to date to the charge on the dwelling above in favour of the housing authority/approved body¹¹, because less than 5 years have passed since the combined transfer and charging order was made in respect of the dwelling.

A combined transfer and charging order dated¹² created a charge in favour of the housing authority/approved body¹¹ of%¹³ of the total dwelling equity, with a charged period of¹⁴ years. An incremental release (i.e. reduction in the charge) amounting to 2% of the equity in the dwelling per annum is applied on each anniversary date of the order over the charged period, subject to compliance by the purchaser with the conditions of section 4 of the combined order. However, incremental releases for the first 5 years are cumulative and are applied only on the expiration of that period, provided that the purchaser or a member of his or her household has, except with the prior consent of the housing authority/approved body¹¹, occupied the dwelling as his or her normal place of residence for that period.

¹⁰ Insert full name and office address of witness.

¹¹ Delete as appropriate.

¹² Insert appropriate date.

¹³ Insert appropriate percentage.

¹⁴ Insert appropriate number of years.

Signed.....

Housing authority/Approved body¹¹.....

Date.....

B. Statement where 5 years or more of charged period have passed but charged period has not expired***Dwelling Details***

Purchaser:

Address:

In accordance with the provisions of sections 46 and 47 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009), incremental releases amounting to%¹³ of the total dwelling equity have been applied to the charge on the dwelling above in favour of the housing authority/approved body¹¹.

A combined transfer and charging order dated¹² created a charge on the dwelling in favour of the housing authority/approved body¹¹ of%¹³ of the total dwelling equity, with a charged period of¹⁴ years. An incremental release (i.e. reduction in the charge) amounting to 2% of the equity in the dwelling per annum is applied to the charge on each anniversary date of the order over the charged period, subject to compliance by the purchaser with the conditions of section 4 of the combined transfer and charging order.

The record of application of incremental releases on the charge is set out below.

Record of incremental releases

Anniversary date (1)	Incremental release applied (% of total dwelling equity) (2)	Remarks (3)
First (— /— /— —)	¹⁵	¹⁶
Second (— /— /— —)	¹⁵	
¹⁷	¹⁵	

¹⁵ Insert 2%, except where incremental release was suspended, in which case insert 0%.

¹⁶ (a) Where “0%” is inserted in column (2) for the first to the fifth anniversary dates, the following text should be inserted in column (3) in respect of those anniversary dates: “Incremental releases were not applied for the first 5 years because, in the course of that period, the purchaser or a member of his or her household, without the prior consent of the housing authority/approved body, did not occupy the dwelling as his or her normal place of residence.”

(b) Where “0%” is inserted in column (2) for the sixth or any subsequent anniversary date, the following text should be inserted in column (3) in respect of the relevant anniversary date(s): “Incremental release was not applied because the purchaser failed to comply with a condition of section 4 of the combined transfer and charging order during the period concerned.”

¹⁷ Insert and complete table for third and subsequent anniversary dates up to statement date.

Total amount of incremental releases (as a percentage of the total dwelling equity) applied to date% ¹³
---	----------------------

Taking account of the incremental releases applied to date, the outstanding charge in the dwelling is now%¹³ of the equity in the dwelling.

Signed.....

Housing authority/Approved body¹¹.....

Date.....

C. Statement where charged period has expired and charge has been released in full

Dwelling Details

Purchaser:

Address:

In accordance with the provisions of sections 46 and 47 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009) (“the 2009 Act”), incremental releases have been applied to the charge on the dwelling above in favour of the housing authority/approved body¹¹ for each year of the charged period, which has now expired. The charge has, therefore, been released in full and there is no outstanding charge on the dwelling in favour of the housing authority/approved body¹¹.

A combined transfer and charging order dated¹² created a charge on the dwelling in favour of the housing authority/approved body¹¹ of%¹³ of the total dwelling equity, with a charged period of¹⁴ years. An incremental release (i.e. reduction in the charge) amounting to 2% of the equity in the dwelling per annum was applied to the charge on each anniversary date of the order over the charged period, which expired on¹⁸.

Section 46(14) of the 2009 Act provides that the purchaser may request the housing authority/approved body¹¹ to execute, at its expense, a deed of discharge in respect of the charging order. Please contact the housing authority/approved body¹¹ if you wish to make such a request.

Signed.....

Housing authority/Approved body¹¹.....

Date.....

¹⁸ Insert date of last day of charged period.

Part 2: Section 47(3)(b) statement***Dwelling Details***

Purchaser:

Address:

Under the terms of sections 46 and 47 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009) (“the 2009 Act”), there was an outstanding charge of €.....¹⁹ on the dwelling above in favour of the housing authority/approved body¹¹ on¹⁸, the last day of the charged period. This amount is calculated by applying the outstanding charge on the dwelling of%¹³ of the total dwelling equity to its market value, which has been determined by the housing authority/approved body¹¹ as €.....¹⁹.

A combined transfer and charging order dated¹² created a charge on the dwelling in favour of the housing authority/approved body¹¹ of%¹³ of the total dwelling equity, with a charged period of¹⁴ years, which expired on¹⁸. An incremental release (i.e. reduction in the charge) amounting to 2% of the equity in the dwelling per annum was applied to the charge on each anniversary date of the order over the charged period, subject to compliance by the purchaser with the conditions of section 4 of the combined transfer and charging order.

The record of application of incremental releases on the charge is set out below.

Record of incremental releases

Anniversary date (1)	Incremental release applied (% of total dwelling equity) (2)	Remarks (3)
First (— /— /—)	¹⁵	¹⁶
Second (— /— /—)	¹⁵	
¹⁷	¹⁵	

Total amount of incremental releases (as a percentage of the total dwelling equity) applied to date% ¹³
---	----------------------

Taking account of the incremental releases applied to the charge during the charged period, the outstanding charge is now%¹³ of the equity in the dwelling.

The housing authority/approved body¹¹ has determined the market value of the dwelling as €.....¹⁹. Applying the outstanding charge to this amount, the purchaser is now due to pay the outstanding charge of €.....¹⁹ to the local authority/approved body¹¹.

¹⁹ Insert appropriate amount.

Section 47(5) of the 2009 Act defines “market value”, for the purposes of calculating the outstanding charge on a dwelling on expiration of the charged period, to mean the price for which a dwelling might reasonably be expected to be sold on the date of expiration of the charged period, in its existing state of repair and condition and not subject to the conditions specified in section 45(2) of the Act or a charging order.

Section 47(6) of the 2009 Act provides that, if the purchaser does not agree with the market value of the dwelling determined by the housing authority/approved body¹¹, the market value shall be determined by an independent valuer nominated by the purchaser from a panel of suitably qualified persons, established by the housing authority, who are of a class or description prescribed in regulations by the Minister for the Environment, Heritage and Local Government. Section 47(6) also excludes the housing authority/approved body¹¹ from liability for any expenses incurred by the purchaser in obtaining an independent valuation of the dwelling.

If the purchaser does not agree with the market value of the dwelling determined by the housing authority/approved body¹¹, he or she should immediately contact the housing authority/approved body¹¹.

Section 47(4) of the 2009 Act provides that the purchaser is due to pay the outstanding charge to the housing authority/approved body¹¹ within 2 months of receipt of this statement. If payment is not made within this period, interest is payable on the amount at an rate of 6% per annum and the local authority/approved body¹¹ may, without prejudice to any other power, 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/approved body¹¹, the purchaser may, under section 46(14) of the 2009 Act, request the housing authority/approved body¹¹ to execute, at its expense, a deed of discharge in respect of the charging order.

Signed.....

Housing authority/Approved body¹¹.....

Date.....

GIVEN under my hand,
2 June 2010.

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 out terms and conditions of the incremental purchase scheme under Part 3 of the Housing (Miscellaneous Provisions) Act 2009, notably in relation to:

- classes of dwellings to which the scheme applies,
- the minimum income required for eligibility under the scheme,
- the information that households must supply when applying to purchase,
- the form of the combined transfer and charging order to be used by housing authorities and approved housing bodies to effect dwelling sales,
- the determination of the purchase price and purchase money for dwellings,
- the minimum period for which a charging order shall apply to a dwelling sold under the scheme.

The Regulations replace the Housing (Incremental Purchase) Regulations (S.I. No. 562 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,
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