



An Bille um Beartán Dlíthiúil Díoltóra do Cheannaitheoirí Maoine, 2021
Seller's Legal Pack for Property Buyers Bill 2021

Mar a tionscnaíodh

As initiated



**AN BILLE UM BEARTÁN DLÍTHIÚIL DÍOLTÓRA DO CHEANNAITHEOIRÍ
MAOINE, 2021
SELLER'S LEGAL PACK FOR PROPERTY BUYERS BILL 2021**

*Mar a tionscnaíodh
As initiated*

CONTENTS

Section

1. Definitions
2. Regulations
3. Seller's Legal Pack
4. Exclusion of certain property transactions
5. Age of pack documents when first included
6. Enforcement
7. Short title and commencement

ACT REFERRED TO

Land and Conveyancing Law Reform Act 2009 (No. 27)



**AN BILLE UM BEARTÁN DLÍTHIÚIL DÍOLTÓRA DO CHEANNAITHEOIRÍ
MAOINE, 2021
SELLER'S LEGAL PACK FOR PROPERTY BUYERS BILL 2021**

Bill

entitled

5

An Act to establish a statutory procedure whereby when a Seller of a property places the property on the market, a set of legal documents (the “Seller’s Legal Pack”) shall be compiled and advertised with the property and made available to potential buyers, such documents ensuring that buyers have key information relating to the property and ensuring the conveyancing process is more efficient.

10

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act, save where the context otherwise requires—

“exceptional circumstances” means by reason of exceptional circumstances or of other factors which are substantially outside the control of the Vendor;

15

“functions” includes powers and duties and a reference to the performance of a function include, with respect to powers, a reference to the exercise of a power;

“Minister” means the Minister for Justice and Equality;

“occupant” includes a potential occupant;

“pack document” means a document (or part of a document) required or authorised by this legislation to be included in the Seller’s Legal Pack;

20

“property” means any real or personal property or any part or combination of such property;

“purchase” shall be read accordingly as set out in the Land and Conveyancing Law Reform Act 2009;

25

“purchaser” means an assignee, chargeant, grantee, lessee, mortgagee or other person who acquires land for valuable consideration;

“property service provider or PSP” means auctioneers, estate agents, letting agents and management agents;

“put on market” means to offer for sale;

30

“records” includes documents, registers, files and archives, kept in any form;

- “sale” includes the potential sale of a property interest;
- “sale agreed” means where the buyer has made a financial offer and the Seller has accepted that offer;
- “Seller” or “Vendor” means the person disposing (selling) of the property;
- “Seller’s Legal Pack” means the documents required by the legislation; 5
- “title” means details of the ownership of a property.

Regulations

2. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 10
- (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 15

Seller’s Legal Pack

3. (1) Upon the decision of the Seller to sell their property, and the placing of same on the market by the seller’s property service provider, a set of documents is to be compiled and advertised as part of the sale and shall be provided to a potential buyer(s) and/or agent, either in electronic and or physical form, which collectively shall be known hereafter as the “Seller’s Legal Pack” and shall consist of the following documents: 20
- (a) Law Society Conditions/Contracts of Sale; 25
- (b) a certified copy of file & file plan or root of unregistered title;
- (c) an Architect’s Certificate of Compliance with planning permission;
- (d) an Architect’s Certificate of Compliance with building regulations;
- (e) a copy of all planning permissions and building regulations documents;
- (f) receipts for financial conditions; 30
- (g) a letter confirming roads and services or evidence of rights of way and wayleave including rights of access to, over or affecting the property interest, fishing rights etc.;
- (h) local property history details;
- (i) a BER Certificate & Advisory Report Certificate of discharge or exemption from Non-Private Residence Charge; 35
- (j) a report summary on planning search, judgement search, Compulsory Purchase

Order Search, bankruptcy search, Sheriff and Revenue Sheriff search, Registry of Deeds Search and company search.

- (2) The Seller's Legal Pack may also include documents, either in electronic and or physical form, consisting of or containing any of the following information:
- (a) a property surveyor's report or an engineer's report; 5
 - (b) documentary evidence of any safety, building, repair or maintenance work as has been carried out in relation to the property prior to the property being advertised for sale;
 - (c) any warranty, policy or guarantee for defects in the design, building, or completion of the property, or its conversion for residential purposes; 10
 - (d) information about the design or standards to which a property has been or is being built;
 - (e) an accurate translation in any language of any pack document if so required;
 - (f) an additional version of any pack document in another format, such as Braille or large print; 15
 - (g) a summary or explanation of any pack document, including legal advice on the content of the pack or any pack document;
 - (h) information identifying the property including a description, photograph, map, plan or drawing of the property;
 - (i) information identifying the actual property interest, whether freehold, leasehold etc., or any further information that would be of interest to potential buyers of the property interest; 20
 - (j) ground stability, the effects of mining or extractions or the effects of natural subsidence;
 - (k) actual or potential environmental hazards, including the risks of flooding or contamination from radon gas or any other substance; 25
 - (l) telecommunications services;
 - (m) sewerage, drainage, water, gas or electrical services;
 - (n) the potential or actual effects of transport services, including roads, waterways, trams and underground or over-ground railways; or 30
 - (o) liabilities to repair or maintain buildings or land not within the property interest; and
- any other information where it would be of interest to potential buyers of the property interest.
- (3) The Seller's Legal Pack shall not include any other documents or information contained in a document other than what is outlined in *subsections (1) or (2)*. 35
- (4) When the property is placed on the market for sale, the property shall be advertised with the Seller's Legal Pack and made available to potential buyers, either in electronic and or physical form, by the Seller's property service provider or agent;

- (5) Depending on the method of delivery, the date of availability of the Seller's Legal Pack shall be deemed to be—
- (a) the day the Seller's Legal Pack is served personally on the intended recipient,
 - (b) the day it would be delivered to the intended recipient's address in the ordinary course of post or (if sooner), the day on which it is proved to have been so delivered, 5
 - (c) the day it is left at the intended recipient's address,
 - (d) the second day after it is left at the document exchange of the person making the requestor (if sooner), the day on which it is proved to have been so delivered, or
 - (e) the day it is sent by fax or electronic communication to the intended recipient's address or (if later), the day on which it is proved to have been so delivered or provided, to the servants or agents acting for the Vendor. 10
- (6) Copies of the documents in the Seller's Legal Pack provided under this section must be true copies or where such individual copy document is produced or provided, is an official copy, a true copy of it or another official copy. 15
- (7) A copy of a document containing a map, plan or drawing—
- (a) which is in the seller's possession, under his control, or to which he has reasonable access, and
 - (b) in which colours are used to mark boundaries or other features,
- is a true copy if those colours are reproduced with sufficient accuracy to enable them to be identified. 20
- (8) Every reasonable effort must be made to ensure that the documents contained in the Seller's Legal Pack, either in electronic and or physical form, and all true copies of same, must be legible and in the case of maps, plans or drawings, must be clear and readable. 25
- (9) Information advertising or marketing goods or services must not be included in the Seller's Legal pack or a pack document.
- (10) The provisions of *subsection (1)* do not apply where, after making all reasonable efforts and enquiries, the responsible person believes on reasonable grounds that any particular document in question— 30
- (a) no longer exists in any form,
 - (b) cannot be obtained from or created by any person, or
 - (c) there are exceptional circumstances as to why it cannot be provided.
- (11) The Seller's Legal Pack shall contain an index containing a list of all the documents included in the pack. 35

Exclusion of certain property transactions

4. A Seller's Legal Pack shall not be needed in the following instances:

- (a) properties where no marketing is required (e.g. sale to member of the family);

- (b) private sales, or any other sale or transfer where the property is not put on the open market;
- (c) mixed sales (e.g. shop with flat);
- (d) right to buy sales;
- (e) sales of portfolios of properties (more than one property being sold as one lot); 5
- (f) properties not being sold with vacant possession; and
- (g) unsafe properties and properties to be demolished.

Age of pack documents when first included

- 5. The documents included in the Seller’s Legal Pack outlined in *section 3* must be dated no earlier than the date that falls one year before the first point of placing the property on the market for sale. Wherein there has been a material change to the physicality of the property since the original documentation was provided, then the Vendor must provide documentation that reflects such change(s). 10

Enforcement

- 6. The enforcement of the arrangements shall be carried out, in each instance, by the Seller’s property service provider who shall not place on the market any property for sale unless he or she is satisfied that the conditions of sale have been met i.e. where the intention of the Seller is so that the entire beneficial interest in property is to be passed to a buyer on the making of an enforceable contract for the sale or other disposition of land. 15

Short title and commencement

- 7. (1) This Act may be cited as the Seller’s Legal Pack for Property Buyers Act 2021. 20
- (2) This Act shall come into force on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 25

An Bille um Beartán Dlíthiúil Díoltóra do
Cheannaitheoirí Maoine, 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do bhunú nós imeachta reachtach trína ndéanfar, nuair a chuirfidh Díoltóir maoine an mhaoin ar an margadh, tacar doiciméad dlíthiúil (“Beartán Dlí an Díoltóra”) a thiomsú agus a fhógairt i dteannta na maoine agus a chur ar fáil do cheannaitheoirí ionchasacha, ar doiciméid iad lena gcinnteofar go mbeidh faisnéis bhunriachtanach a bhaineann leis an maoin ag ceannaitheoirí agus lena gcinnteofar go mbeidh an próiseas tíolactha níos éifeachtaí.

*An Teachta Marc MacSharry a thug isteach,
15 Samhain, 2021*

Seller’s Legal Pack for Property Buyers Bill
2021

BILL

(as initiated)

entitled

An Act to establish a statutory procedure whereby when a Seller of a property places the property on the market, a set of legal documents (the “Seller’s Legal Pack”) shall be compiled and advertised with the property and made available to potential buyers, such documents ensuring that buyers have key information relating to the property and ensuring the conveyancing process is more efficient.

*Introduced by Deputy Marc Mac Sharry,
15th November, 2021*
