



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

EXPLANATORY MEMORANDUM

The Bill is designed to introduce a Seller's Legal Pack, as set out above, to reduce transaction times, reduce wasted costs and to allow for more certain and transparent transactions for the consumer and the seller when property is being bought and sold. This legislation prescribes the documents to be included in a Seller's Legal Pack, the circumstances and method by which such documents are compiled, as part of the general advertisement of the property. The Bill also provides for exceptions and enforcement.

IPAV, the Institute of Professional Auctioneers & Valuers, with consumers in mind has been campaigning to find new and cost-effective ways to speed up the conveyancing of property – the legal process in transferring property title.

An IPAV Conveyancing Survey Results 2020 revealed that 81 per cent of property service providers are either frustrated or very frustrated by the delays caused by the current conveyancing process. Some 79 per cent of auctioneers who are experiencing conveyancing delays from the time the property has gone 'sale agreed' to when the sale has closed. The survey also found that the average number of weeks it takes from when a property is 'sale agreed' to when contracts are signed is ten. It takes six weeks from the signing of the sales contracts to the date of when the sale closes.

The IPAV has written to the Law Society of Ireland seeking its support for the introduction of a Seller's Legal Pack. The country was promised a faster, more efficient and cost-effective system for buying and selling property, from 1 January 2019, through a new 'pre-contract investigation of title' (PCIT) system to address title before signing contracts. The PCIT model was designed by the Law Society of Ireland, the representative body for solicitors. Further reports noted that the changes were "promising a more streamlined, transparent and efficient experience for Irish buyers and sellers."

The proposed legislation, as outlined in the Bill, is a clear acknowledgement that the conveyancing process is not working as efficiently as it could and that delays have led to frustration for all parties concerned in seeking to close property transactions in a timely, efficient and cost-effective manner. Indeed, conveyancing delays has been identified by property service providers as far back as 2005 as set out in the Auctioneering/ Estate Agency Review Group, a report that was delivered to the Minister for Justice, Equality and Law Reform. In particular, the Group report noted: "*The Group also believes that the Regulatory Authority should make it a priority, in its consumer awareness role, to ensure that buyers*

and sellers are better informed about the conveyancing process so that they can, if they wish, become more proactively involved in their own transaction.”

The IPAV, as the representative body responsible for standards in the property sales industry, have taken the view that the Seller’s Legal Pack would substantially reduce the delays incurred in the current sales process which they consider to be unaligned, rife with uncertainty and which present legal risks to the Vendor.

By introducing a Seller’s Legal Pack, a number of benefits will accrue, including:

- Reducing the number of property sales which fall through
- Cut down the time frame that encourages gazumping or gazundering to take place
- Streamlining the process to align with public and online property auctions
- Allowing for the filtering of properties prior to sale to confirm saleability
- Reducing the potential liability for the seller/vendor
- Reduce the conveyancing time as the larger part will now be front loaded

There are also a number of additional non-monetary benefits which have not been quantified and these can include but not exclusively as:

- increased transparency;
- greater certainty;
- reduced transaction times, and;
- reduced stress in the purchase of a property.

These benefits will delivering an improved home buying and selling process. The Seller’s Legal Pack represents an important investment, given significant non-refundable costs such as surveys, legal bills and mortgage valuation should the deal fall through due to lack of important information up front.

When a Seller places their property on the market, this legislation shall direct that a Seller’s Legal Pack is compiled and is advertised with the property. The Seller’s Legal Pack can then be sent to potential buyers. It is expected the SLP will add no further cost to the general expenses associated with the sales process. The fee will include all potential queries that might be raised by the vendor, purchaser and legal representatives throughout the conveyancing process.

This proposed legislation, as initiated, is a stand-alone piece of legislation that compliments existing legislation in the area of conveyancing and registering of property including, but not exclusively, the Land and Conveyancing Law Reform Act, 2009; the Property Services (Regulation) Act, 2011, the Registration of Title Act, 1964; the Registration of Deeds and Title Act, 2006 and the Succession Act, 1965.

The Bill focuses on the decision to put a property on the market for sale, where the intention of the Seller is to pass the entire beneficial interest in the property to the buyer on the making of an enforceable contract for the sale or other disposition of land. The ultimate objective of this proposed piece of legislation is to influence the development of a sustainable property market where people can buy or sell properties in a cost-effective

and efficient manner. This will speed up sales purchasers buying property who are renting currently that property will come back to the rental market quicker helping the rental sector. It is therefore appropriate to introduce this Bill to address the issues raised in this explanatory memorandum.

Marc MacSharry TD

Samhain, 2021.