



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**

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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

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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.

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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;

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“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;

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“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;

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“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;

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“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



**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.