



STATUTORY INSTRUMENTS

S.I. No. 535 of 2008



HOUSING (HOME CHOICE LOAN) REGULATIONS 2008

(Prn. A8/1984)

HOUSING (HOME CHOICE LOAN) REGULATIONS 2008

In exercise of the powers conferred on the Minister for the Environment, Heritage and Local Government by section 11 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992) (as adapted by the Environment and Local Government (Alteration of Name of Department and Title of Minister) Order 2003 (S.I. No. 233 of 2003)), which powers are delegated to me by the Environment, Heritage and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2008 (S.I. No. 225 of 2008), I, Michael Finneran, Minister of State at the Department of the Environment, Heritage and Local Government, with the consent of the Minister for Finance, hereby make the following regulations:—

Citation and commencement.

1. (1) These Regulations may be cited as the Housing (Home Choice Loan) Regulations 2008.

(2) These Regulations shall come into operation on 1 January 2009.

Interpretation.

2. (1) In these Regulations, any reference to an article which is not otherwise identified is a reference to an article of these Regulations.

(2) In these Regulations—

“the Act” means the Housing (Miscellaneous Provisions) Act 1992;

“borrower” means a person to whom a loan is made and includes a person applying for a loan;

“credit policy” means written guidelines for housing authorities setting out the terms and conditions for making of loans under these Regulations;

“first time buyer” has the meaning assigned to it under section 92B of the Stamp Duties Consolidation Act 1999 (as amended);

“the Minister” means the Minister for the Environment, Heritage and Local Government;

“value” means;

(a) in the case of a new house, the market value of the house as determined by the housing authority;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 16th December, 2008.*

- (b) in the case of a house being constructed, the amount, which in the opinion of the housing authority represents the reasonable cost (including all reasonable incidental expenses) of building the house and the value of the interest of the borrower in the site thereof;

and “valuation” shall be construed accordingly.

Application

3. (1) These Regulations shall apply to the provision of loan finance by housing authorities to first time buyers for the acquisition of new houses, or for the construction of new houses.

(2) These Regulations shall not apply to—

- (a) the purchase of a house under section 90 of the Housing Act 1966,
- (b) the purchase of an affordable house within the meaning of Part 2 of the Housing (Miscellaneous Provisions) Act 2002, or Part V of the Planning and Development Acts 2000 — 2007, and
- (c) the grant of a shared ownership lease under section 2 of the Act.

Amount of loans

4. The amount of a loan shall not exceed—

- (a) €285,000, or,
- (b) 92% of the value of the house,

whichever is the lesser.

Eligibility Criteria

5. Subject to the following provisions of this article, loans shall not be available—

- (a) unless the person occupies the house on completion as his or her normal place of residence,
- (b) where the house has previously been owned and occupied, or occupied by any other person,
- (c) in the case of a single borrower, where the borrower’s annual gross income is less than €40,000,
- (d) in the case of a joint application, where the combined income of the applicants is less than €50,000,
- (e) to borrowers under the age of 18 years,
- (f) to borrowers over the age of 70 years,

- (g) for the purchase or construction of new houses where the total floor area of the house exceeds or would exceed 175 square metres.

Credit Policy

6. (1) Housing authorities shall prepare a credit policy which is in compliance with the provisions of article 5 and which shall be submitted to the Minister for approval.

(2) The credit policy shall set out, inter alia—

- (a) detailed requirements in relation to the financial standing of applicants,
- (b) proportion of net monthly income required to make loan repayments, and
- (c) employment conditions.

(3) Decisions on all loan applications shall be made by housing authorities in accordance with the credit policy.

Repayment period

7. Unless otherwise agreed by the housing authority, a loan shall be repaid within such period not exceeding 30 years from the date of the making of the loan or, in the case of loans for the construction of new houses where the loan is made by instalments, from such date not later than the date of the payment of the final instalment as may be determined by the housing authority.

Manner of repayment

8. Loans shall be repaid by an annuity of principal and interest combined and all payments shall be made at monthly intervals.

Interest rates

9. The rate of interest on a loan shall be such rate as may be fixed by the housing authority making the loan.

Duties of Housing Authorities

10. (1) Before making a loan a housing authority shall be satisfied that—

- (a) the borrower intends to occupy the house as his or her normal place of residence,
- (b) the value of the ownership of the house is sufficient to provide adequate security for the loan,
- (c) the title to the ownership is one which an ordinary mortgagee would be willing to accept,
- (d) the borrower is not a borrower in respect of any other loan made by them under the Act,
- (e) all other relevant statutory requirements have been met, and

- (f) it is in receipt of an undertaking from the borrower's solicitor to—
- (i) give effect to the execution of an instrument referred to under this article,
 - (ii) furnish good marketable title to ownership to the housing authority,
 - (iii) attend to stamping and registration of all title deeds, and
 - (iv) to hold all title documents in trust for the housing authority until the requirements of article 10(1)(f)(iii) have been met, following which all title deeds must be lodged with the housing authority together with a certificate of title in the form of the Law Society of Ireland approved standard form.

(2) On making the loan a housing authority shall be satisfied that the repayment of the loan to the housing authority is secured either by—

- (a) an instrument vesting the ownership (including any interest already held by the borrower) in the housing authority subject to the right of redemption by the borrower, or
- (b) in a case where the ownership of the borrower consists of a leasehold interest, by an instrument of mortgage by subdemise subject to a nominal reversion, vesting the term of the subdemise in the housing authority subject to a right of redemption by the borrower, or
- (c) where the title to the ownership is registered under the provisions of the Registration of Title Act 1964, by an instrument charging the ownership with payment to the housing authority of the amount of the loan together with the interest thereon.

Duties of Borrowers

11. (1) A house in respect of which a loan has been made shall, until the loan with interest thereon is fully paid, or until the housing authority shall have recovered possession of the house in accordance with the provisions of section 11(5) of the Act be held subject to the following conditions—

- (a) every sum for the time being due in respect of principal or interest shall be punctually paid,
- (b) the borrower shall use the house as his or her normal place of residence, and
- (c) the borrower shall keep the house adequately insured to the satisfaction of the housing authority.

(2) The insurance of a house in respect of which a loan is made shall be effected by the borrower, and a receipt for the payment of each premium in

respect of such insurance shall be produced by the borrower to the housing authority on request by them.

(3) Any addition to an instalment or other periodical payment, payable under sub-paragraph (a) of paragraph (1) of this article, shall not be included in the amount of a loan secured in accordance with the provisions of article 10 of these Regulations.

Liabilities of Borrowers

12. The borrower shall be personally liable for the repayment of any sum due in respect of a loan made under these Regulations.

Defaults

13. A housing authority shall, before proceeding under sub-section (5) of section 11 of the Act in respect of a breach of any of the conditions of article 11 of these Regulations other than condition (1)(a) of that article, serve a notice in writing on the borrower requiring him to comply with the condition and if the borrower undertakes in writing, within fourteen days of the service of the notice, to comply with the condition and complies with the condition within two months of the date of such undertaking, the housing authority shall not take possession of the house.

Records

14. A housing authority shall keep a record of loans made by them under these Regulations and shall enter therein in regard to each loan—

- (a) a description of the house in respect of which the loan is made,
- (b) the amount of the loan,
- (c) the amount of the loan for the time being remaining unpaid,
- (d) the name of the borrower for the time being,
- (e) payments received,
- (f) interest rates applied, and
- (g) such other particulars as the housing authorities think fit to enter.

GIVEN under my hand,
12 December 2008

MICHAEL FINNERAN,
Minister of State at the Department of the Environment,
Heritage and Local Government.

The Minister for Finance consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Finance,
12 December 2008

BRIAN LENIHAN,
Minister for Finance.

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