

MULTI-UNIT DEVELOPMENTS ACT 2011
("the Act")

The Act addresses some of the main issues that have been the source of much dispute between developers and owners of units in Multi-Unit Developments. For the first time there exists legislation that provides a statutory framework for the operation and governance of multi-unit developments. The duties and obligations of developers have been clearly defined. The rights and obligations of members have been confirmed. A framework for dispute resolution has been outlined.

The Act will be welcomed by those buying and living in multi-unit developments as it imposes greater legal obligations on developers and provides a framework for the management schemes.

WHEN IS IT LAW? As and from **1st April 2011** the provisions of the Act are in force.

WHO DOES IT AFFECT?

- Developers
- Management Agents
- Management Companies and its Directors
- Owners of units in multi-unit developments (members of the management company)

WHAT IS A MULTI-UNIT DEVELOPMENT?

The Act defines a multi-unit development as a development being on land on which there stands erected a building or buildings comprising a unit or units;

- where it is intended that the units share amenities, facilities and services, and
- where the development contains not less than 5 residential units.

WHAT TYPE OF DEVELOPMENTS WILL THE ACT APPLY TO?

- Multi-Unit Developments with residential units only (e.g. Apartment Complexes)
- Mixed Use Multi-Unit Developments with commercial and residential units
- Housing Estates with management companies

HOW DOES IT AFFECT?

The principal provisions of the Act include:

- A requirement for the establishment of an Owners' Management Company ("OMC") for all multi-unit developments which is to be set up at the expense of the developer.
- The developer must transfer the common areas to the OMC prior to the sale of any unit in the development.
- For existing developments or where units have already been sold / transferred, the common areas must be transferred to the OMC within 6 months of the commencement of the Act - **i.e. by 30th September 2011**
- The transfer of the common areas to the OMC does not relieve the developer of the responsibility for completing the development, including compliance with the requirements or conditions of the planning permission or with the Building Control Acts.

- After the commencement of the Act a purchaser of a unit shall have automatic membership of the OMC.
- 1 vote shall attach to each residential unit and each vote shall have equal value.
- A director of an OMC shall not be permitted to have a term exceeding 3 years. This does not prevent a particular director being reappointed at an AGM of the OMC.
- A requirement for the OMC to hold annual meetings and prepare annual reports for members.
- Service Charges must be approved by members at a general meeting. If 75% of the members do not approve, the existing charge shall remain in place until the new charge has been adopted.
- Where no sinking fund has been established, the OMC must put one in place within 18 months of the commencement of the Act - **i.e. by 30th September 2012**. The Act provides for a payment of €200.00 per annum or such other amount as may be agreed by a meeting of the members.
- The making of House Rules.
- The Circuit Court shall have jurisdiction to deal with disputes between parties. However, if mediation or another form of dispute resolution has not been attempted, the court may direct that this process be undertaken by the parties. Costs may be awarded against a party who does not engage in a meaningful way in such mediation.
- If an OMC has been struck off, it has an extended period of 6 years to be restored to the Register.

If you would like to discuss any matter in greater detail, please do not hesitate to contact us.

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