



**C**ombined Drainage Agreements occasionally turn up on titles or as acts on Searches affecting properties in the Dublin Area.

Such agreements arise in order to avoid the expense of connecting each house on the Estate directly to the main drain or sewer, by the Corporation allowing the Builder or Contractor to make an agreed connection but indemnifying the Corporation against any cost or expense arising out of such Consent, because of the liability of the Corporation to maintain such drains or sewers, and further, the Contractor or Builder agree to charge the houses on the Estate with such cost and expenses.

However, since Section 11 of the Local Government (Sanitary Services) Act, 1948, all combined drains were deemed to be drains not sewers, for the purpose of the Sanitary Services Acts, and since that enactment, these agreements have become obsolete, as the liability for the maintenance of all householders' drains, whether combined or single private drains, devolves on the owners. There is, therefore, no further liability on the Corporation to maintain householders' drains which connect into the main drain or sewer.

Notwithstanding that such agreements have now become obsolete, they still appear on the Title, and will remain on the Title until such time as a formal Deed of Release is executed by the Corporation. Such Deeds of Charge could be deemed prior Charges and so this creates a dilemma in so far as a Building Society is concerned by reason of Section 80 of the Building Societies Act, 1976, which prohibits the Society making an Advance where there is a prior Charge, unless such prior Charge is in favour of the Society.

The Conveyancing Committee has looked at the position, as has the Joint Committee and, while it is felt there should be a formal Release, the procedure should be adopted that such Deeds be ignored, because they are of no further relevance, and are now un-enforceable.

Accordingly, solicitors acting for Builders or Developers should, in the case of Unregistered Title, have the Title registered in the Land Registry, and there is no doubt but that the client will appreciate the resulting advantages.

## COMBINED DRAINAGE AGREEMENTS

## A CHARGE ON PROPERTY

**UPDATE:** The Building Societies Act 1976 has been repealed and replaced by the Building Societies Act 1989.

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