

# IPOA News

December  
2012

IPOA Office will be closed  
24th December 2012 and  
will reopen on 2nd January 2013

Official Newsletter of the Irish Property Owners' Association, the National Landlords' Representation Organisation • IPOA NEWS - Volume 26 Issue 13: December 2012

## EDITORIAL

Budget 2013 has once more given property owners a demand for extra taxation and extra costs in providing private rental properties. While we have lobbied extensively on issues that are inequitable for landlords, Government politicians are not listening. Why for instance must we pay the so called Local Property Tax on our properties? We supply the properties, but we do not use the services which the tax is supposed to fund - refuse, water, local amenities; we don't enjoy the foot paths; we don't use the sewerage. Why should we be levied with this charge? There is no provision for tenants to pay, and we must ask: why not?

We all heard the Minister for Environment time and time again outline the "User Pays" slogan, but where is that now? I cannot understand that these charges cannot be levied on the tenant in the same way as electricity, gas, TV, phone and broadband.

The Government tell us that this tax is forced upon us by the Memorandum of Understanding with the troika, but it is the Government that still has control of the levers. It does not have to impose what is an inequitable property tax, particularly at this time. But it seems that property is seen as a soft or lazy option, and the tax has even been described as a Wealth Tax. We in IPOA are members of the UIPI (International Property Owners Association) which represents 28 countries and who lobby at EU level on the various aspects regarding property with a lot of success. At a meeting last week in London, I outlined our difficulties with the huge burden of Government measures being placed on property owners and it was agreed that each country would outline the taxes applying to property which will be collated by the UIPI European Affairs Department, after which extensive lobbying will take place at EU and national level.

We are currently preparing to challenge tax legislation which is only applicable to landlords, such as the reduction by 25% in interest allowable on mortgages, the non-treatment of private rental accommodation as a business, and not being able to claim other genuine business expenses against tax. This was discussed at various recent meetings, but will depend entirely on the promised support of members and new members.

While not deviating from the belief that tenants should pay for their services, it is worth noting that now, at least those of us who own houses in multiple units will be levied with the property tax on the value of the house and not the individual units therein. Why should we have to pay the NPPR/Household Charge per unit? And why is the NPPR not abolished at the same time as the Household Charge? In so far as any charge should be levied on landlords, my belief has been that you should only have to pay on the house itself, as it has only one folio, and you cannot buy or sell individual units. In 2006, a property in 10 units could be bought for €1m plus Stamp Duty at 9%, or €90,000; if you could have bought the same property in individual units, the Stamp Duty would have worked out at 3%, or €30,000. Why can the Government change stance when applying NPPR and Household Charge on the individual units - money is the answer. And what about landlords who paid high rates of Stamp Duty in the boom time in order to provide a service for the 19% of households who wish to rent privately, or who acquired buy-to-let property as part of their pension?

As I have said previously, this would be a worthwhile challenge for landlords to support.

We have a huge burden of work preparing for 2013, so make your presence felt, support us in our legal challenge, pay your membership and legal costs levy, and in the medium to long term, we will reap the benefit - and why not get some of the property owners who don't support anything on board?

Have a good Christmas and a new year full of success.

*Stephen A. Faughnan*  
Chairman

## Meeting on 8th November 2012

The meeting in the Red Cow Moran Hotel on the 8th November was a particularly busy one. With 500 in attendance, this was an excellent turnout and we would like to thank members for their continual support.



- The first guest speaker was Tom Lynch the CEO of the Property Services Regulatory Authority. He detailed the principal functions of the PSRA which is a comprehensive brief. There was a questions and answers session after his presentation.
- David Hall, Irish Mortgage Holders Association, detailed the reality of debt and banking difficulties, and the treatment that people with insufficient income to service their debts are facing at the moment. It is a very worrying, stressful situation and likely to become more so as time goes on.
- Our third speaker was Tom O'Brien. He detailed the legal opinion on the case proposed to be taken against the State on the unfair tax treatment of the private rental sector. It was decided, following consultation with Senior Counsel and after a vote from the members, that this case will go ahead. Members will be levied with a sum along with their renewal, and on collection of the monies for the case, a plenary summons will be issued against the State.

Other issues that were discussed on the night were the standards applicable from February 2013, the NPPR/Property Tax/Household Charge, an update on the PRTB, the Proposed Deposit Protection Scheme, and the reductions in Rent Supplement.



David Hall

## The annual NPPR charge will apply for 2013 and the NPPR will be abolished thereafter.

### Legal Challenge on Unfair Tax Treatment of Rental Income

It was decided at the Members meeting on the 8th November that a legal challenge against the State should be taken on the unfair tax treatment of rental income. In spite of years of meeting with Ministers, discussion with the Department of Finance and lobbying requesting fair treatment, without success, it has been decided that a case against the State will be taken. A collection is to be taken of the amount agreed by the Members at the meeting and the case will commence when the funding is in place.

## CONTENTS

Editorial	1
Meeting 8th November 2012	1
Legal Challenge	1
Property Services Regulatory Authority	2
Pre-Budget Submission	2
Water Charges	2
Budget Information	2/3
Standards in Rented Houses	3/4/5
Buildings Energy Ratings Update	5
Central Bank Meeting	5
PRTB Rent Index	6
Question Raised	6
Proposed Deposit Protection Scheme	6
UIPI Update	6
IPOA Digest	7
Membership Application	8



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## Property Services Regulatory Authority

The Property Services Regulatory Authority oversees the professional life of property service professionals involved either as corporate bodies, partnerships, sole traders or employees in:

- The purchase or sale, by whatever means, of any estate or interest in land (including buildings) wherever situated.
- The auction of private property other than land.
- The letting of any estate or interest in land wherever situated.
- The provision of property management services.

Thus Auctioneers, Estate Agents, Letting Agents and Property Management Agents will be regulated by the Authority. This will apply to property located in the Republic of Ireland and to transactions in Ireland which relate to property located abroad. The new regulatory environment provides for:

1. A comprehensive licensing system covering all PSPs.
2. The investigation and adjudication of complaints made against PSPs.
3. The audit/inspection of PSPs operations.
4. The establishment of minimum qualification standards.

The Authority have power to sanction a licensee up to and including the revocation of a licence and may also impose fines of up to €250,000 where a PSP is found to have engaged in "improper conduct". The Authority may bring a prosecution against a PSP for failing to comply with his or her statutory obligations or against any person providing a property service without a licence which may result in either a large fine or imprisonment or both. Under the new regulatory regime, all PSPs are required to contribute to the "Property Services Compensation Fund". Where a person suffers a loss due to the dishonesty of a PSP, the Authority may award compensation.

### Pre-Budget Submission

The IPOA made its pre-Budget submission to Minister Noonan in October, outlining the difficulties facing the sector and the unfairness of the tax treatment.



Tom Lynch

- Mortgage Interest Relief to be reinstated to 100% as a matter of urgency. This measure only affected people with borrowing, but it has led to investors in a loss making situation also having a liability for taxation. It has also resulted in reducing an investor's ability to pay back capital on the loan.
- Any money spent on making a rental property more energy efficient should be allowable in the tax year it is spent, rather than as a capital expense to encourage investors to make their property more energy efficient, reduce energy costs and benefit tenants, help create employment, and reduce carbon emissions and help achieve 2020 target.
- Taxes that are, and have been, introduced to fund local authority services and water charges should be paid by the user. The "user pays" principle is the fairest system, with waivers available for those on low incomes.
- Refurbishment Relief, which was withdrawn on the 31st July 2008 (Section 11 Finance Act 2006), should be reinstated.
- PRSI should not be brought in on rental income; it is another unfair imposition on the private rental sector.

### Water Charges

A meeting was held with Bord Gais in October in respect of charging for water in rental properties. The intention is to charge the user in individual properties and there is an ambitious plan to meter approximately 27,000 properties on a monthly basis when the programme begins. There will be assessed charges where metering is not possible. Costs will be decided in conjunction with the Energy Regulator. As yet, there is no formulated policy for pre-63 buildings that are let in units.

## Budget Information

### Local Property Tax (LPT)

The Local Property Tax (LPT) will come into effect from 1 July 2013 with a half year charge applying for 2013. The LPT will be administered by the Revenue Commissioners. The main features of the Local Property Tax are as follows:

#### Liable Persons

- Owners of residential properties, including rental properties, will be legally responsible ("liable persons") for payment of the tax.
- The liability will rest with the tenant in the case of long leases (over 20 years), or life tenancies.
- Co-owners will be jointly and severally liable for the tax.
- During March 2013, information will be sent by the Revenue Commissioners to liable persons advising them of their obligations in relation to the LPT and how to comply.

#### Assessment System

- The LPT will operate through a system of self-assessment and self-declaration by liable persons.
- The Revenue Commissioners will have responsibility for all administration, collection, enforcement and audit aspects of LPT.
- Normal Revenue enforcement and collection procedures will apply to the LPT.

#### Basis of Assessment

- The market value of residential properties will be the basis of assessment for the tax.
- There will be a system of market value taxable bands:
  - The initial band covers €0-€100,000.
  - Then bands of €50,000 width up to €1,000,000 in value thereafter.
  - The tax liability will be calculated by applying the tax rate to the mid-point of the band.
  - Houses valued over €1m will be chargeable to LPT on their market value, with no banding applied.

#### Valuing Property

- Liable persons will self-assess the market value of their property.
- Where Revenue guidance about valuing a property is followed, property valuations will not be challenged by the Revenue Commissioners.
- The initial valuation is valid up to and including the year 2016.

#### Rates

- For the first 18 months (up to 31 December 2014), the national central tax rate will be **0.18% up to €1 million and 0.25% on excess value over €1 million.**
- From 1 January 2015, local authorities will have discretion to vary the LPT rates by +/-15% of the national central rate.

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### Exemptions

Certain properties will be exempt from assessment. These exemptions largely correspond to exemptions from the Household Charge. New exemptions to the end of 2016 are:

- New and previously unused properties purchased between 1 January 2013 and the end of 2016
- Second-hand property purchased by a first time buyer between 1 January 2013 and 31 December 2013.

Valuation Band €	Mid-Point of Valuation Band €	LPT in 2013 (Half year charge)	LPT in 2014 (full year charge)
0 to 100,000	50,000	€45	€90
100,001 to 150,000	125,000	€112	€225
150,001 to 200,000	175,000	€157	€315
200,001 to 250,000	225,000	€202	€405
250,001 to 300,000*	275,000	€247	€495
300,001 to 350,000	325,000	€292	€585
350,001 to 400,000	375,000	€337	€675
400,001 to 450,000	425,000	€382	€765
450,001 to 500,000	475,000	€427	€855
500,001 to 550,000	525,000	€472	€945
550,001 to 600,000	575,000	€517	€1,035
600,001 to 650,000	625,000	€562	€1,125
650,001 to 700,000	675,000	€607	€1,215
700,001 to 750,000	725,000	€652	€1,305

The arrears of the Household Charge for 2012 will be capped at €130 if paid to the Local Government Management Agency before 30 April 2013. From 1 May to 30 June 2013, normal Household Charge collection, late payment fee and interest procedures will apply. The cap of €130 will no longer be available. From 1 July 2013, any outstanding Household Charge will be increased to €200 and added to the Local Property Tax due on the property. In effect, the arrears of the Household Charge will be converted into LPT and collected through the LPT system. The Revenue Commissioners will pursue this additional liability when the LPT system is fully operational. Interest and penalties under the LPT system will apply to the additional €200.

The annual NPPR charge will apply for 2013 and the NPPR will be abolished thereafter.

### PRSI on Rental Income

From 2014, rental income will be subject to PRSI. The Minister for Finance stated the following in the Budget speech:

*"Unearned income will become subject to PRSI in 2014. This means that PRSI will be payable on income generated from wealth such as rental income, investment income, dividends and interest on deposits and savings."*

More details will be available on this in the Finance Bill when it is issued early next year.

### INCREASED CAT, CGT & DIRT Rates

- Decreased the CAT (Capital Acquisitions Tax) threshold by 10%.
- DIRT increased from 30 per cent to 33 per cent.
- Increased the rates of CAT and CGT (Capital Gains Tax) by 3 per cent to 33 per cent.

## Standards Deadline 1st February 2013

The Housing standards for rented houses were amended in 2009 on Statutory Instrument No. 534 of 2008, and further updated on Statutory Instrument 462 of 2009. Increased standards will come into effect for bedsit accommodation on the 1st February 2013. It is important that you ensure that your property complies with the standards at all times. Responsibility for the enforcement of these standards lies with the Local Authorities. Outlined below is Statutory Instrument 534 of 2008 and 462 of 2009 and they have to be read in conjunction as 538 was amended slightly.

## S.I. No. 534 of 2008 HOUSING (STANDARDS FOR RENTED HOUSES) REGULATIONS 2008

In exercise of the powers conferred on the Minister for the Environment, Heritage and Local Government by Section 5 of the Housing Act 1966 (No. 21 of 1966), as amended by Section 24 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992), and by Section 18 of the Housing (Miscellaneous Provisions) Act 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 Finnan, Minister of State at the Department of the Environment, Heritage and Local Government hereby make the following Regulations —

### Citation

1. These Regulations may be cited as the Housing (Standards for Rented Houses) Regulations 2008.

### Commencement

2. (a) Subject to sub-article (b), these Regulations shall come into operation on the 1st day of February 2009.

(b) In respect of an existing tenancy, Articles 6 to 8 of these Regulations shall come into operation on the 1st day of February 2013.

### Interpretation

3. (1) In these Regulations:

(i) "existing tenancy" means a house let for rent or other valuable consideration solely as a dwelling at any time from the 1st day of September 2004 to the 31st day of January 2009,

(ii) "house" includes any building or part of a building used or suitable for use as a dwelling and any out office, yard, garden or other land appurtenant thereto or usually enjoyed therewith,

(iii) "landlord" means the person for the time being entitled to receive (otherwise than as agent for another person) the rent paid in respect of a house by the tenant thereof,

(iv) "tenant" means the person for the time being entitled to the occupation of a house under a tenancy, and

(v) "tenancy" includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied.

(2) In these Regulations, any reference to a sub-article is a reference to a sub-article of the article in which the reference occurs.

(3) Any requirement of these Regulations with respect to repair shall be construed as requiring a standard of repair that is reasonable in all the circumstances and, in determining the appropriate standard of repair, regard shall be had to the age, character and prospective life of the house.

(4) Nothing in these Regulations shall be taken—

(a) as requiring or authorising anything to be done in connection with a water supply, drainage system or the supply of gas or electricity otherwise than in accordance with the enactments relating thereto,

(b) as creating an obligation to—

(i) take any action which is the responsibility of a local authority or statutory undertaker, other than such action as may be necessary to bring the matter to the attention of the local authority or statutory undertaker concerned, or

(ii) repair or maintain in good repair, working order or in a clean condition anything which a tenant is entitled to remove from a house.

(5) Sub-article (4) shall not be construed as exempting a housing authority from their duties under these Regulations as respects houses let by them.

(6) In this Article: "local authority" has the meaning assigned to it by the Local Government Act 2001 (No. 37 of 2001); "statutory undertaker" means a person authorised by or under statute to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, gas, electricity, telephone, postal or other public undertaking.

### Application

4. (1) Subject to Article 2, these Regulations shall apply to every house let for rent or other valuable consideration solely as a dwelling unless the house is let—

(a) to a person only for the purpose of conferring on that person the right to occupy the house for a holiday,

(b) by the Health Service Executive or by an approved body, as accommodation with sanitary, cooking or dining facilities provided for communal use within the building which contains the house, or

(c) by a housing authority pursuant to any of their functions under the Housing Acts 1966 to 2004, and is a demountable house.

(2) In sub-article (1)(b) "approved body" means—

(a) a body standing approved of under section 6 of the Housing (Miscellaneous Provisions) Act 1992, or

(b) a voluntary body standing approved of by the Minister for Health and Children or by the Health Service Executive for the purposes of providing accommodation for elderly persons or persons with a mental handicap or psychiatric disorder.

**Structural Condition**

5. (1) A house to which these Regulations apply (hereinafter referred to as "the house") shall be maintained in a proper state of structural repair.  
 (2) For the purposes of sub-article (1), "a proper state of structural repair" means essentially sound, with roof, floors, ceiling, walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective.

**Sanitary Facilities**

6. (1) There shall be provided within the habitable area of the house, for the exclusive use of the house:  
 (a) A watercloset, with dedicated wash hand basin adjacent thereto with a continuous supply of cold water and a facility for the piped supply of hot water, and  
 (b) A fixed bath or shower with continuous supply of cold water and a facility for the piped supply of hot water.  
 (2) The requirements of sub-article (1) shall:  
 (i) be maintained in good working order,  
 (ii) have safe and effective means of drainage,  
 (iii) be properly insulated and secured,  
 (iv) have minimum capacity requirements for hot and cold water storage facilities, and  
 (v) be provided in a room separated from other rooms by a wall and a door and containing separate ventilation.

**Heating Facilities**

7. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall contain:  
 (a) a permanently fixed appliance or appliances capable of providing effective heating,  
 (b) suitable and adequate facilities for the safe and effective removal of fumes and other products of combustion to the external air.  
 (2) The operation of any appliance referred to in sub-article (1)(a) shall be capable of being independently manageable by the tenant.

**Food Preparation and Storage and Laundry**

8. (1) Notwithstanding Article 4, this Article shall not apply where the house is let by a housing authority under Section 56 of the Housing Act 1966 (as amended) or by a housing body approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992.

(2) Subject to sub-article (1), there shall be provided, within the habitable area of the house, for the exclusive use of the house:  
 (a) 4 ring hob with oven and grill,  
 (b) Suitable facilities for the effective and safe removal of fumes to the external air by means of a cooker hood or extractor fan,  
 (c) Fridge and freezer or fridge-freezer,  
 (d) Microwave oven,  
 (e) Sink, with a piped supply of cold water taken direct from the service pipe supplying water from the public main or other source to the building containing the house and a facility for the piped supply of hot water, and an adequate draining area,  
 (f) Suitable and adequate number of kitchen presses for food storage purposes,  
 (g) Washing machine, or access to a communal washing machine facility within the curtilage of the building, and  
 (h) Where the house does not contain a garden or yard for the exclusive use of that house, a dryer (vented or recirculation type).  
 (3) All facilities under sub-article (2) shall be maintained in good working order and good repair.  
 (4) Responsibility for maintenance of facilities under sub-article (2) shall rest with the landlord.

**Ventilation**

9. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall have adequate ventilation.  
 (2) All means of ventilation shall be maintained in good repair and working order.  
 (3) Adequate ventilation shall be provided for the removal of water vapour from kitchens and bathrooms.

**Lighting**

10. (1) Every room used, or intended for use, by the tenant of the house as a habitable room, shall have adequate natural lighting.  
 (2) Every hall, stairs, and landing within the house and every room used, or intended for use, by the tenant of the house shall have a suitable and adequate means of artificial lighting.  
 (3) The windows of every room containing a bath and/or shower and a water closet shall be suitably and adequately screened to ensure privacy.

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### Fire Safety

11. (1) Subject to sub-article (2), the house shall contain a fire blanket and either a mains-wired smoke alarm or at least two 10-year self-contained battery operated smoke alarms.
- (2) Each self-contained house in a multi-unit building shall contain a mains wired smoke alarm, a fire blanket and an emergency evacuation plan.
- (3) Emergency lighting, linked to the fire alarm system, shall be provided in all common areas within a multi-unit building.

### Refuse Facilities

12. The house shall have access to suitable and adequate pest and vermin proof refuse storage facilities.

### Electricity and Gas

13. Installations in the house for the supply of electricity and gas shall be maintained in good repair and safe working order with provision, where necessary, for the safe and effective removal of fumes to the external air.

### Revocation

14. (1) The Housing (Standards for Rented Houses) Regulations 1993 (S.I. No. 147 of 1993) are revoked.
- (2) Notwithstanding sub-article (1), Articles 6 and 7 of the Housing (Standards for Rented Houses) Regulations 1993 (S.I. No. 147 of 1993) shall continue to apply and have effect in relation to existing tenancies until the 1st day of February 2013.
- (3) Notwithstanding sub-articles (1) and (2), Article 7 of the Housing (Standards for Rented Houses) Regulations (S.I. No. 147 of 1993) shall continue to apply and have effect where the house is let by a housing authority under Section 56 of the Housing Act 1966 (as amended) or by a housing body approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992.

### S.I. No. 462/2009 — Housing (Standards For Rented Houses)(Amendment) Regulations 2009

I, MICHAEL FINNERAN, Minister of State at the Department of the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 5 (as amended by section 24 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992)) of the Housing Act 1966 (No. 21 of 1966) and by section 18 (as amended by section 8 of the Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009)) 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)) and the Environment, Heritage and Local Government (Delegation of Ministerial Functions) (No. 2) Order 2009 (S.I. No. 407 of 2009), hereby make the following regulations:

1. (a) These Regulations may be cited as the Housing (Standards for Rented Houses)(Amendment) Regulations 2009.
- (b) These Regulations come into operation on 1 December 2009.
2. The Housing (Standards for Rented Houses) Regulations 2008 (S.I. No. 534 of 2008) are amended-
- (a) in Article 3(5), by inserting after "let" the words "or available for letting",
- (b) in Article 4(1), after each occurrence of "let", by inserting "or available for letting",
- (c) in Article 5, by substituting for sub-article (2) the following:  
"(2) For the purposes of sub-article (1) 'a proper state of structural repair' means sound, internally and externally, with roof, roofing tiles and slates, windows, floors, ceilings, walls, stairs, doors, skirting boards, fascia, tiles on any floor, ceiling and wall, gutters, down pipes, fittings, furnishings, gardens and common areas maintained in good condition and repair and not defective due to dampness or otherwise.",
- (d) in Article 8 —
- (i) in sub-article (1), by inserting after "let" the words "or available for letting", and
- (ii) by substituting for sub-article (2)(h) the following:  
"(h) Where the house does not contain a garden or yard for the exclusive use of that house, a dryer (vented or recirculation type) or access to a communal dryer facility.",
- (e) by substituting for Article 11 the following:

### Fire Safety

11. (1) Subject to sub-article (2), the house shall contain a fire blanket and either a mains-wired smoke alarm or at least two 10-year self-contained battery-operated smoke alarms.
- (2) Each self-contained house in a multi-unit building shall contain a mains-wired smoke alarm, a fire blanket and an emergency evacuation plan.

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- (3) Emergency lighting shall be provided in all common areas within a multi-unit building.", and
- (f) In Article 14(3), by inserting after "let" the words "or available for letting".

### Building Energy Ratings Update

The energy performance in buildings was revisited and Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast) was produced.

- Member States shall require that when:
  - buildings having an energy performance certificate;
  - building units in a building having an energy performance certificate;
- are offered for sale or for rent, the energy performance indicator of the energy performance certificate of the building or the building unit, as applicable, is stated in the advertisements in commercial media."

A new provision introduced through the Recast EU Energy Performance in Buildings Directive, transposed in Ireland under S.I. 243 of 2012, is the mandatory inclusion of BER information in property sale and rental advertisements. Under the regulations, a person or their agent, offering a property for sale or rent on or after 9th January 2013, shall ensure that the energy performance indicator of the current BER certificate for the building is stated in any advertisements, where such advertisements are taken relating to the sale or letting of that building.

The requirements apply to advertisements, meaning a public announcement in: newspaper, magazine, brochure, leaflet, advertising notice, vehicle, radio, television, internet (including apps and social media) and direct mail. The regulations stipulate that the Sustainable Energy Authority of Ireland (SEAI), as the designated Issuing Authority, shall publish guidelines as to how Building Energy Rating (BER) details would be conveyed in such advertisements. The guidelines along with the electronic artwork files necessary for the production of advertisements are available for viewing / downloading at [http://www.seai.ie/Your\\_Building/BER/Advertising\\_of\\_BER/](http://www.seai.ie/Your_Building/BER/Advertising_of_BER/)



### Central Bank Meeting

As a result of the financial difficulties experienced with banks, the IPOA sought and had a meeting with the Central Bank. The difficulties experienced by property owners were fully discussed. The Central Bank outlined that they are putting pressure on the banks to take control of their lending, and in situations where there is no hope, they need to take action. Otherwise, they should try to work with the borrowers. One of their problems is that rental properties are secured on homes and if they move on them, they could be making the landlords homeless. There appears to be a problem where landlords are using all available funds to pay their home mortgage and not using the rental income to pay the rental mortgage.

The problem with banks repossessing and putting in property managers was discussed. The downsides to this were itemised including the fact that ultimately, the banks will get less repayments because landlords repair and manage themselves, thus reducing costs. Property managers will charge for their service and will have to seek contractors to deal with repairs.

Landlords difficulties with State intervention were outlined including the following:

- Reduction in mortgage interest allowable to 75%;
- NPPR, particularly in houses in units, not allowable as an expense, along with other normal business costs;
- Tax treatment of the private rental sector generally may lead to a tax liability in a loss making situation;
- Delays as a result of flaws in the Residential Tenancies Act , including where rent is not being paid by the tenant.

We requested that the Central Bank should be aware of these which may result in landlords not being in a position to repay their mortgages, and requested that they lobby for the reinstatement of the mortgage interest allowable to 100%.

We also requested that statements made in recent time by Patrick Honohan be toned down to prevent whole-scale alarm, and that they should focus on those who are not engaging along with the small percentage of landlords not paying at all.

The IPOA outlined what the banks need to do, including the following:

- Trained staff who understand the workings of the private rental market
- Realistic repayment restructuring
- A named person who understands the customer's individual file
- Put pressure on the Government for a fair tax treatment of the sector
- Scare tactics to be stopped

### PRTB RENT INDEX

The PRTB are currently working on producing a Rental Price Index. It is expected to be ready early next year and should be searchable by property type on a quarterly basis. It will show actual rents received and should be a useful service for property owners.

### Property Tax and Landlords Question Raised on November 6th 2012

**Deputy Willie Penrose** asked the Minister for Finance if in the context where people have a number of apartments where they are compelled to pay the home tax levy on each apartment and the Household Charge on each apartment, if he will consider allowing these as legitimate deductible expenses as charges on the business, particularly when the holding of such properties are pure business with no other source of income available to the person who owns them; and if he will make a statement on the matter.

**Minister for Finance (Deputy Michael Noonan):** I am assuming that the reference to the "home tax levy" is a reference to the NPPR charge payable under the Local Government (Charges) Act 2009.

I am informed by the Revenue Commissioners that a person in receipt of rental income is assessed to income tax on the profit amount of the rents received (i.e. the gross rents less allowable expenses incurred in earning those rents). In computing the profit amount of the rents received, only those deductions that are specified in section 97(2) of the Taxes Consolidation Act 1997 are allowable. The main deductible expenses are:

- \* any rent payable by the landlord in the case of a sub-lease;
- \* the cost to the landlord of any goods provided or services rendered to a tenant;
- \* the cost of maintenance, repairs, insurance and management of the property;
- \* interest paid on borrowed money used to purchase, improve or repair the property (in the case of residential property, the deduction is restricted to 75% of the interest and is subject to compliance with PRTB registration requirements for all tenancies that existed in relation to the property in the relevant year);
- \* payment of local authority rates in the case of rateable properties used for commercial purposes.

In addition, wear and tear allowances are available in respect of expenditure incurred on fixtures and fittings provided by a landlord for the purposes of furnishing rented residential accommodation. These allowances are granted at the rate of 12.5% per annum of the actual cost of the fixtures and fittings over a period of 8 years. I have no plans to amend the deductible expenses to include the home tax levy or the Household Charge.

### Proposed Deposit Protection Scheme

The Programme for Government includes the introduction of a Deposit Protection Scheme. To that end, the PRTB were instructed to carry out research into this area. Indecon's *Assessment of the Feasibility of a Tenancy Deposit Protection Scheme in Ireland* is now on the Department of Environment website: [www.environ.ie/en/Publications/DevelopmentandHousing/Housing](http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing).

This report deals well with the terms of reference of the research; however, it clearly shows that the percentage of problems in this area is very small and a Deposit Protection Scheme does not make financial sense. The IPOA

will continue to oppose the introduction of a Deposit Protection Scheme which would be needlessly bureaucratic and costly when we have existing legislation to address the situation. A Deposit Protection Scheme in Ireland would be like using a "sledgehammer to crack a nut".

**Deposits are taken for damage above normal wear and tear.**

### UIPI Update

International Property Day was celebrated in London on the 7th December in the NLA Offices on Albert Embankment. The focus of this year's Property Day was expropriation and the arbitrary confiscation of property by the State. There were a number of speakers, including Diana Wallis (former UK MEP), Vice-President of the European Parliament and a leading voice in Brussels on the issue of property expropriation. There were representatives present from most member countries of the UIPI and this was a very successful event.



### UIPI Election

On 13 October 2012 in Berlin, Stratos Paradias was unanimously re-elected President of the International Union of Property Owners (UIPI) for a third four-year term. Mr. Paradias, a lawyer from Athens, is the founder and President of the Hellenic Property Federation (POMIDA). He has been involved in the UIPI for almost 30 years.

On this occasion, the UIPI also re-elected its Vice-Presidents: France Bauvin, European Delegate of the Union National de la Propriete Immobiliere (France), Dr. Rolf Kornemann, President of Haus & Grund Deutschland (Germany), Dr. Friedrich Noszek, President of Zentralverband der Hausbesitzer (Austria), Dr. Edo Pirkmajer, Vice President of Zdruzenje Lastnikov Nepremijnin v Sloveniji (Slovenia), David Salusbury, Chairman of the National Landlords Association (United Kingdom), RNDr. Tomislav Simecek, President of the Association of House Owners of the Czech Republic, and Michele Vigne, Vice President of Confedilizia (Italy). Peter Batta, Director of Huseiernes Landsforbund (Norway), newly appointed Vice-President, completes the Vice-Presidential team.

Dr. Rudolf Steiner, from Hauseigentumerverband (Switzerland), was also re-elected Treasurer of the association.



## IPOA Digest

What pertains on an international stage can also be applied domestically. Why is it, for example, that banks have the whip hand over the debt that hangs over mortgage holders in particular? The borrowing that went on during the bubble years was reckless, but the lending was, if anything, even more reckless. Yet it is the borrowers who find themselves being dragged through court, humiliated, and, in some instances, in danger of losing their homes – **Irish Examiner**.

The Irish **Property Owners Association** said many landlords can't afford to take the cut in income. Up to 55% of its landlords have restructured their mortgages due to rising costs such as interest rate increases, obligatory BER certificates, the €200 NPPR charge, 25% cut in Mortgage Interest Relief, and the €100 Household Charge. "The rental cap is effectively rental control. But often there isn't an alternative there. As Rent Supplement is cut, it will disadvantage these tenants as they won't be able to compete with someone who can afford to pay market rent themselves," Margaret McCormick, a Spokeswoman for the Association, said – **Irish Examiner**.

**Sandra McLellan TD (SF, Cork East)** asked the Minister for Justice and Equality if a landlord is permitted to pass the household tax, or future property tax, or local authority charges on to the tenant and the reply included the following: "*As regards payment obligations under tenancy agreements, the relationship of landlord and tenant is generally a matter of contract between the parties and it is therefore a matter for the parties to agree the terms of the agreement, including payment of any charges which are levied to fund local services*".

Those in receipt of Rent Supplement are being left in the invidious position of being asked to renegotiate their rent with a landlord who may be unable, or unwilling, to do so. The **IPOA** stated in its presentation to us that many landlords are not in a position to negotiate downwards because of the extra costs imposed on them. It is utterly unfair to expect tenants to renegotiate rents. These are not a category of tenants likely to wish to rock the boat. It is often quite difficult to find landlords who will accept Rent Supplement. People are, therefore, generally reluctant to leave suitable accommodation – **Senator Trevor Ó Clochartaigh (SF, Galway West)**.

A tenant can tell a landlord or agent that his or her Rent Allowance has been cut and ask for a rent reduction. The landlord then reduces the rent on the basis of information provided by the tenant and in some instances, the new rent is actually less than what the tenant is receiving as a Rent Supplement. A lot of information is circulating among those in receipt of the payment about what is essentially a scam, whereby the Rent Supplement is actually higher than the rent being paid. This is due to the fact that the rent is going directly to the tenant. There is no safety measure in place such as the agent or landlord informing the Department of Social Protection of the terms of the lease and providing a signed copy of the agreement. In the absence of such a measure, what is happening in some instances is that the form provided to the Department has a rental amount on it that is different from what is being paid to the landlord – **Senator Mark Daly (FF, Kerry South)**.

I have sympathy with certain landlords. I do not refer to those who own 40 or 60 houses or the landlord who paid the NPPR charge on 70 houses. However, ordinary landlords can include public servants who decided they will never be able to save enough to support their families in the future unless they bought a house as an investment in their children's education. They have been hit with Pension Levies and the USC at the same time as they face reduced rents and difficulties in collecting money from tenants. I do not see why we should not deal directly with landlords on Rent Supplement in the same way as the County Councils deal with landlords on the RAS. The reluctance to deal directly with landlords is the result of a 20 year old case in which a landlord in Galway sued the health board for property damage because it was paying the rent directly to him. The problem of liability can be easily addressed through legislation. **Senator John Kelly (Labour, Roscommon-South Leitrim)**.

Under The Local Government Charges Act of 2009, pre-63 property investors are obliged to convert all of their units to ensure that each one has a separate bathroom attached. The deadline for compliance is February 1 next, after which units without bathrooms cannot be let out. According to the **Irish Property Owners Association (IPOA)**, which represents 5,000 landlords in the Republic, almost all pre-63 owners have been hamstrung by a series of issues, mostly financial.

The **IPOA** believes that the majority of pre-63 owners, whose buildings hold around 6,000 tenants, have been thus far unable to comply and won't manage it by the

deadline. The main obstacle it says, is negative equity, which is preventing those who cannot afford to make the costly renovations from selling their properties to someone who can actually afford to undertake the work. Almost all properties bought since 2002 are now in negative equity. In addition, according to the **IPOA**, 55pc of its members surveyed late last year revealed that they were in financial trouble by saying that they had renegotiated the terms of their bank loans since the recession kicked in. "The **IPOA** will not stand for sub-standard rental accommodation and urges its members to sell up if they can't afford the upkeep of standards. But a good many of those who are in negative equity actually can't sell up right now," it said. Since the legislation was introduced in 2009, tax costs for pre-63s have also ratcheted up well ahead of those charged on regular rental properties. The €200 "second house" tax applies on a per-unit basis -- as does the new €100 household charge. This means that a house in six beds entails new taxes of €1,800 per annum – **Irish Independent**.

There is a Government decision to transfer responsibility for the provision of rental assistance to housing authorities using a new Housing Assistance Payment (HAP). This will return Rent Supplement to its original purpose of a short-term income support. A commencement date for the new arrangements of 1st January 2013 has been approved, subject to further consideration of the matter by Government – **Joan Burton TD, Minister for Social Protection**.

Private residential tenancies, with limited exceptions, are governed by the Residential Tenancies Act 2004 and it is a matter for the tenant and landlord to agree the terms and conditions of a lease or tenancy agreement consistent with the Act. Section 16(a)(ii) of the Act states that where a lease or tenancy agreement provides that any charges or taxes are payable by the tenant, the tenant shall pay those charges or taxes to the landlord in accordance with the lease or tenancy agreement – **Jan O'Sullivan TD, Minister for Housing**.

The failure of banks to deal with buy-to-let mortgages and the arrears on residential home loans risks bankrupting the country a second time – **Central Bank of Ireland**.

The residential rental market is very strong – **Frank Daly, Chairman of NAMA** at an Oireachtas Finance Committee meeting.

Cuts to Rent Allowance and changes to the way it is paid, have been an "unmitigated disaster" and "need to be reversed", according to a senior Emmet Stagg TD, Chief Whip of the Labour Party – **The Irish Times**.

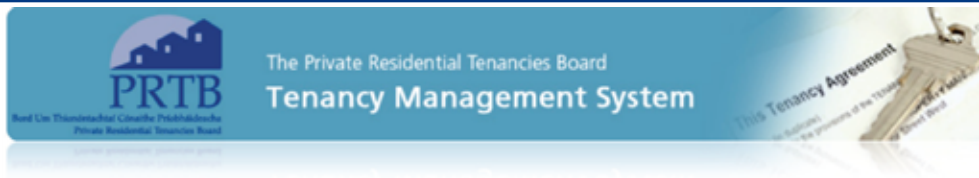
Householders will have to pay the cost of replacing any leaking pipes located between water meters and their properties, Irish Water has said – **Irish Examiner**.

I am aware that some landlords are advertising their property on public sites and stating that they are unwilling to accept Rent Supplement recipients as tenants. The Equal Status Acts 2000-2011, prohibit discrimination in the provision of services that are generally available to the public whether provided by the State or the private sector. Refusal to accept Rent Supplement tenants does not fall within the area of discrimination as provided for under the equality legislation – **Joan Burton TD, Minister for Social Protection**.

I am concerned about investors in the buy-to-let market; not those who came in on the last wave but those who genuinely built up investment property portfolios and managed them in a professional way, letting them to answer a demand for accommodation in city markets. The interest on their carrying loans in their portfolios is now being restricted by the Department of Finance in terms of its allowability as an expense to be deducted from rental income for income tax assessment purposes. That is another timebomb because that interest restriction is actually growing. It should be reversed if we want to save that category of investor. It is not a question of a free lunch, but one of survival – **Peter Mathews TD (FG, Dublin South)**.

Banks cannot automatically deny customers the right to return to a tracker rate mortgage if they switch temporarily to a fixed rate, the Financial Services Ombudsman has confirmed – **Irish Examiner**.

Under legislation being brought in next year, tenants on Rent Supplement will be required to agree to automatic deduction of their rent from their social welfare payments and will have to use the household budget service operated by An Post. Regular amounts will then be taken from their social welfare payments for their rent. Ms Burton said she was going to bring in legislation after the Budget to do this – **Irish Independent**.



## LANDLORDS : On-Line Dispute Resolution & Registration Service is now available !

### Registrations

You can now register your tenancies online with The Private Residential Tenancies Board, the PRTB. Log onto [www.prtb.ie](http://www.prtb.ie)

If you are letting property for residential purposes you must be registered by law. Online registration is quick and easy. Simply log on to [www.prtb.ie](http://www.prtb.ie) and register in minutes!

The Private Residential Tenancies Board is the regulatory authority for the private rented sector. Residential tenancies must be registered with the Board within one month. Failure to register can result in fines of up to €3,000 and or 6 months imprisonment.

You must be registered with the PRTB to claim for certain tax reliefs.

### Disputes

In addition to our online registration service, the PRTB now offer online dispute application.

Those landlords or agents already online can now use their existing account to lodge a dispute on a registered tenancy in a matter of minutes. For those not already online, it is simple to create a user account which will allow you to:

- [Lodge a dispute application](#)
- [View your own disputes](#)
- [Request access to disputes](#)
- [Lodge an appeal](#)

Simply log on to [www.prtb.ie](http://www.prtb.ie) to interact with us online!

**Contact us:** [www.prtb.ie](http://www.prtb.ie)  
P.O Box No 11884, Dublin 2

**Tel:** (01) 635 0600 **Fax:** (01)635 0601  
**Email:** [Registrations@prtb.ie](mailto:Registrations@prtb.ie), [disputes@prtb.ie](mailto:disputes@prtb.ie)



## MEMBERSHIP APPLICATION 2013 IRISH PROPERTY OWNERS ASSOCIATION

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: Day: \_\_\_\_\_ Mobile: \_\_\_\_\_ Night: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

I WISH TO BECOME A MEMBER OF THE IRISH PROPERTY OWNERS ASSOCIATION.

I enclose a cheque for  €225 (multiple units) or  €125 (a single unit – 1 unit is 1 apartment or house let as a unit).

I wish to pay by credit card MasterCard:  Visa:  Laser:

Card number: \_\_\_\_\_ Expiry Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Cardholders Name: \_\_\_\_\_

ON BEING ACCEPTED AS A MEMBER OF I.P.O.A, I CONFIRM THAT MY PROPERTIES COMPLY WITH MINIMUM STANDARDS LEGISLATION HOUSING (STANDARDS FOR RENTED HOUSES) REGULATIONS 1993, THE HOUSING (STANDARDS FOR RENTED HOUSES)REGULATIONS 2008 AMENDED 2009

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Introduced By: \_\_\_\_\_

OFFICE USE:

Acceptance Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Reg. No. \_\_\_\_\_ Accepting Officer: \_\_\_\_\_