

IPOA News

Official Newsletter of the Irish Property Owners' Association, the National Landlords' Representation Organisation • IPOA NEWS - Volume 25 Issue 11: December 2011

EDITORIAL

When a Government proposal to abolish tax reliefs on Section 23/50 properties was first floated in late 2010, the IPOA immediately announced that legal action would be taken if necessary, and on January 12, 2011, met with officials in the Department of Finance to explain why the idea was wrong. This led to the then Minister for Finance, Brian Lenihan TD, agreeing to suspend the proposal in Budget 2011 on the basis that an impact assessment would be undertaken to identify what he called "any significantly anomalous effects of the proposed changes".

Legal advice was sought by the IPOA from Michael McDowell SC and he agreed that there was a case to be made against the State. The major basis of the campaign against the abolition was that the landlord had a "legitimate expectation" that the State would honour the agreement it made at the time of purchase and that it would continue to apply for its agreed duration. Investors entered into contracts to purchase properties which were priced higher because of the relief, and the purchase of such properties contributed greatly to exchequer returns, and continues to contribute greatly from NPPR and hidden taxes such as the reduction in legitimate business reliefs. It was also pointed out that such properties are in reality a vital component of the national housing stock, contributing greatly to the social requirements of society.

As part of the impact assessment, the IPOA submitted a formal thirty-page submission detailing the effects, backed up by a survey carried out among IPOA members which showed that 90% of owners have bank debt, with 55% having had to restructure to avoid personal insolvency. In July 2011, AIB reported that 16% of their buy-to-let mortgages had arrears of 3 months or more, a figure which has risen substantially since in a total Irish banks market of €24 billion.

The IPOA campaign amended the thinking of the Department of Finance and in Budget 2012 announced this month, the Minister for Finance, Michael Noonan TD, said that reliefs in Section 23 type investments "will not be terminated or otherwise restricted for investors with an annual gross income under €100,000, as these are at the greatest risk of insolvency".

However, as a balancing exercise, he introduced a surcharge from January 1, 2012 on individuals with gross incomes over €100,000 which will apply at a rate of 5% on the amount of income sheltered by property reliefs in a given year. In addition, investors in accelerated capital allowance schemes will no longer be able to use any capital allowances beyond the tax life of the particular scheme where that tax life ends after January 1, 2015. Where the tax life of a scheme has ended before January 1, 2015, no carry forward of allowances into 2015 will be allowed. The Budget also introduced PRSI on rental income from 2013.

The introduction of these measures, if not amended in the Finance Bill, will have a significant long term effect on all landlords, not just those who availed of Section 23/50 reliefs. This can be seen as the thin end of the wedge by a Government policy which seems to have difficulty with the concept of landlords being an essential component of the State's housing requirements, notwithstanding the significant effort put in by the State to encourage landlords to get involved in the Rental Accommodation Scheme and other "incentives" to provide and meet the housing needs of our people. What other way can you look at the reduction in allowable

mortgage interest, the NPPR, the Household Charge, the reduction in Rent Supplement and the sometimes difficult requirements of the PRTB?

The IPOA will continue to vigorously represent the interests of those with buy-to-let properties, and will be equally vigorous in opposing any Government measures which militate against landlords. Achieving the result from the recent campaign of the IPOA, and other campaigns, is costly and can only be done with the full support of IPOA members. This overall campaign has been very effective, and well managed thanks to our Sub Committee, Staff and Committee Members.

I would like to take this opportunity to thank you for your continuous support of the Association and wish you a Happy Christmas and Prosperous New Year.

Stephen A. Faughnan

Chairman

Information Evening 19th January 2012

A date for your Diary - The IPOA will be holding an information evening in the Red Cow on the 19th January 2012 commencing at 7.30pm. We will have a Guest Speaker on the financial difficulties being faced by property owners in the Private Rental Sector and how to manage your deficit. We will also be featuring an update on the Budget and how it will affect you. There will be a draw on the evening for members who have renewed their IPOA Membership for 2012 - not to be missed!

**IPOA Office will close
Friday 23rd December and re-open 3rd January 2012**



**Rent Books,
Receipt Books,
Leases etc.,
available from
the office**



CONTENTS

| | |
|---|-----|
| Editorial | 1 |
| Information Evening | 1 |
| Budget 2012 - Brief Outline | 2 |
| Meeting with Department of Finance | 3 |
| IPOA Diary/Yearbook | 3 |
| Rents Increasing | 3 |
| Trouble with the Banks | 3 |
| Deposit Protection Scheme | 3 |
| Landlords receive Criminal Convictions | 3/4 |
| Oireachtas Presentation - Deposit Protection Scheme | 4/5 |
| Fire Safety Regulations in Rented Property | 6 |
| Fire Safety - Multi-Unit Development Act | 6/7 |
| NPPR | 7 |
| UIPI Update | 8 |
| IPOA Digest | 8 |

Budget 2012 - Brief Outline

The newsletter went to print immediately after the Budget announcement. The detail of each item is still uncertain and some will not be available until the Finance Bill is published early next year. Outlined below are the changes that will effect property owners.

Household Charge

Household Charge of €100 to be levied on all properties in the State. This is expected to be brought in on the same basis as the NPPR and liable per dwelling as an interim measure. This charge is expected to be increased in subsequent Budgets and will in time be based on the value of the dwelling.

Rent Supplement Changes

Changes are being made to the Rent Supplement Scheme to achieve

savings of €55 million in 2012. The minimum contribution that single tenant's make towards their rent will increase by €6, going up from €24 to €30 per week. The minimum contribution payable by couples will be €35 per week. The Department of Social Protection will be revisiting the rent limits in 2012 which is intended to reflect levels of rent in a particular area.

Stamp Duty

The Stamp Duty rate for commercial property transfers will be reduced from 6 per cent to a flat rate of 2 per cent in respect of all non residential property, including farmland as well as commercial and industrial buildings. The current Stamp Duty arrangements for residential property will continue to apply, with 1 per cent on transactions up to and including €1 million and 2 per cent thereafter.

Capital Gains Tax Incentive

There will be a Capital Gains Tax incentive for property purchased between now and the end of 2013. If a property is bought during this period and held for at least seven years, the gain attributable to that seven year holding period will be relieved from Capital Gains Tax.

Other Increases

- Increasing the current rate of Capital Acquisitions Tax from 25 per cent to 30 per cent;
- Increasing Capital Gains Tax from 25 per cent to 30 per cent;
- Reducing the Group A tax-free threshold for Capital Acquisitions Tax from €332,084 to €250,000;
- Increasing DIRT from 27 per cent to 30 per cent;
- Further broadening of the base for PRSI to cover rental, investment and other forms of income from 2013;
- VAT to increase by 2% to 23%

Legacy Property Tax Reliefs

The Minister for Finance has decided not to proceed with the proposals put forward by the previous Government in last year's Budget on the Legacy Property Tax Reliefs. The impact assessment report concludes that reliefs to small scale investors should not be restricted, but that there is scope for larger investors to contribute more. The Government also believes that large scale investors in property that attracts tax reliefs can and should make more of a contribution.

A property relief surcharge of 5 per cent will be imposed on investors with an annual gross income over €100,000. This will apply on the amount of income sheltered by property reliefs in a given year.

Reliefs in Section 23 type investments will not be terminated or otherwise restricted for investors with an annual gross income under €100,000 as these are at the greatest risk of insolvency. Investors in Accelerated Capital Allowance schemes will no longer be able to use any capital allowance beyond the tax life of the particular scheme where that tax life ends after 1 January 2015. Where the tax life of a scheme has ended before 1 January



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Generous Limits

- Loss of rent receivable – 20% of building sum insured as standard
- Trace & Access cover - €13,000
- Fire Brigade Charges - €2,500
- Damage caused by Emergency Services - €1,000
- Property Owners Liability (cover for accidents to members of the public and domestic/casual property repairs/maintenance persons other than permanent employees under a contract of service)
Limit of Indemnity €2,600,000 as standard
Limit of €6,500,000 available
- Employers Liability Limit of Indemnity - £13,000,000 extension may be included at a minimal charge
- Costs in cleaning drains, gutters etc following damage - unlimited.
- Replacement locks - €1,000

This specialist scheme is underwritten by Prestige Underwriting Services (Ireland) Limited on behalf of Amtrust Europe Limited. Amtrust Europe Limited provides a variety of insurance products to the Irish, European and International Insurance Markets.
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2015, no carry forward of allowances into 2015 will be allowed. The delayed implementation of this measure gives individuals time to adjust. Full details will be in the Finance Bill.

Meeting with the Department of Finance

On the 21st November, we met with officials from the Department of Finance. This was a very constructive meeting, and issues that affect the property market were discussed, including the reduction of mortgage interest allowable, the NPPR, negative equity, reduced rents and the damage that the withdrawal of the property legacy reliefs would cause. The officials had a very good understanding of the situation facing property owners and the financial problems being experienced with bank debt.

IPOA Diary/Yearbook

The IPOA will not be producing a 2012 Diary. It was with regret that this decision was taken. The Diary was provided to our members free of charge and financed through sponsorship and advertising, but we just could not gain sufficient sponsorship in the current economic climate to fund the 2012 Diary. Hopefully in the future, we will be in a position to produce an IPOA Diary once again.

Rents Increasing

Landlords are reporting to us that letting times have reduced and there is much more interest in their properties when they are being advertised. Tenants are haggling more, but rents have increased slightly particularly in traditional areas like Rathmines/Ranelagh and City Centre. Do be careful and check references before letting people into properties.

Ensure that you get one month's rent in advance and one month's rent as a deposit. If the applicant is on Rent Supplement ensure they have proof of their entitlement before letting them into the property, and that it is a condition of the lease that the Rent Supplement is paid directly to your account.

Trouble with the Banks

Landlords are experiencing serious difficulties with the banks. There appears to be an element of bullying and intimidation. We are aware from a survey regarding Section 23's, carried out in June, that 55% of the landlords surveyed had already restructured their loans. Buy-to-Let investors need a code of conduct to be followed, where the income from their properties is insufficient to meet the capital and interest repayments. The people who appear to be hit the hardest are those who are not in negative equity but cannot afford to pay capital and interest at the moment. The banks may agree to leave the property on interest only, but will move the investor from a tracker mortgage to variable rate. This has the same cost effect as paying the capital which the investor cannot afford to do.

Members have informed us that the banks are trying to force them to sell properties to reduce their debt, if there is any equity in the property, in a firesale. However, people who are in negative equity and are insolvent are being left to run their properties for the moment. If you have a meeting with the bank, bring an independent financial advisor with you, or your accountant; bring a statement of income and expenditure showing your financial situation; where it is possible to pay towards the capital repayment, organise to do so but make sure that it is a sustainable repayment - so that you will not default.

Deposit Protection Scheme

On Wednesday, 16th November, the Minister for the Environment, Community and Local Government (Deputy Phil Hogan): said the following in the Dail:

"The Residential Tenancies Act 2004 regulates the tenant-landlord relationship in the private rented residential sector. My Department conducted a review of the Act in 2009 and the incorrect retention of deposits by landlords was identified in the review process as one of a range of issues that merited specific attention. In July 2011, the Government approved the drafting of the Residential Tenancies (Amendment) Bill 2011. The general scheme of the Bill proposes the introduction of fines where a landlord is found to have incorrectly retained a tenant's deposit, as a first step to eliminating the problem of deposit retention. My Department is currently liaising with the Office of the Parliamentary Counsel regarding the drafting of the Bill.

The Programme for Government commits to the introduction of a Deposit Protection Scheme and it is important that action in this regard is taken in the context of a strong evidence base. I have therefore asked the Private Residential Tenancies Board, which is the independent statutory body charged with the administration of the Act, to commission cost benefit analysis-based research on such a scheme and to report back to me with recommendations. I understand that the research will be put out to tender in the coming weeks and I expect that the Board will revert to me with detailed research and recommendations by summer 2012.

Previous research on this topic by the PRTB has engaged in comparative examination of schemes existing in a number of other countries, but has not included any detailed analysis of the costs and benefits of establishing a Deposit Protection Scheme in Ireland. In line with the regulatory impact analysis guidelines for a proposal of this scale, a detailed cost benefit analysis of how a Deposit Protection Scheme might be applied to the existing Irish system, and the costs arising, should be the initial action. Any new scheme must be integrated into the Residential Tenancies Act. It should be linked to the registration function of the PRTB, and perhaps also to minimum rental accommodation standards. The purpose of this further research is to identify what type of scheme could best suit the Irish market and its costs and operational implications. This will then enable me to make a definitive, evidence-based, recommendation to Government on this matter in due course."

Landlords receive Criminal Convictions

The PRTB have been writing to landlords who they believe have a tenancy that should be registered. Do respond to

IMPORTANT - FIRE HAZARD

Important safety warning on Grässlin QE7 electric water-heating timer

In 2005 a fault was identified with the back plate component of Grässlin QE7 electric water-heating timers, which could cause the timers to overheat and go on fire.

While significant efforts have been made since 2005 to replace or repair all affected timers, some affected timers in the homes of Irish consumers still have not been replaced or repaired.

Safety is paramount to Grässlin. To ensure the remaining units are identified and repaired, we kindly ask for your collaboration to identify timers which may have been installed before 2005 and were not repaired after November 2005.

What to do

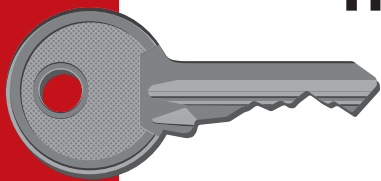


If you have in your home a Grässlin QE7 electric water-heating timer which back plate or complete unit was not replaced as part of this recall after November 2005, stop using the device immediately and do not use the main switch and boost buttons while sleeping or out of the house.

Please note that Grässlin QE7 timers which bear the '+' mark as part of the product name are unaffected by this recall.

We thank you for your cooperation and apologize for the inconvenience. If you have any questions about this recall, or if you wish to arrange for free replacement of any recalled products, please call Mr. Electric on free help-line at 1800 311 606 or email to qe@qe.com

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this correspondence in a timely manner; and if you have a tenancy let under the Residential Tenancies Act, ensure that it is registered with the PRTB.

Dublin Landlord Receives Three Criminal Convictions and must pay €11,550 for not Registering Rental Properties in Galway

The PRTB secured three criminal convictions and three fines against a Dublin landlord for failure to register three of his properties in Galway. The Judge convicted him of three offences contrary to Section 144(3) of the Residential Tenancies Act 2004 and fined him €1,500.00 in respect of each. The District Court also awarded the PRTB legal costs of €2,350.00 in respect of the costs of each case.

Wicklow Landlord Receives Criminal Conviction and must pay €10,550 for failure to comply with PRTB Determination Order to refund a Tenant's Security Deposit

On 10 October, the "PRTB" secured a criminal conviction and fine against a Wicklow landlord for failure to comply with a Determination Order made by the PRTB, which ordered that the landlord pay the tenant an amount of €2,500.00 being part of the security deposit of €2,000.00 unjustifiably retained when the tenancy came to an end. The landlord was fined €2,000.00 in respect of his failure to comply with the terms of the Determination Order and was ordered pay the tenant the sum of €2,950.00 (that being €2,500.00 on foot of the Determination Order and a further €450.00 in respect of loss of earnings, travel and subsistence in having to attend Court. The landlord was also ordered to pay compensation to the PRTB of €3,000 in respect of the costs of his appeal to the Tribunal and legal costs of €2,600.00 plus VAT.

Email Address

Please contact the office with your email address if it has changes since you have joined the Association; it is a quick, easy, free method for the Association to update members on everyday matters.

Oireachtas Presentation - Deposit Protection Scheme

On the 4th October 2011, the IPOA were invited to make a presentation on a Rental Deposit Protection Scheme before the Joint Oireachtas Committee on Environment, Transport, Culture and Gaeltacht. Stephen Faughnan outlined the presentation as follows.

"Chairman, Members of the Joint Committee on Environment, Transport, Culture and Gaeltacht.

Thank you for the invitation to participate in the discussion on a Rental Deposit Protection Scheme.

Outline

The Irish Property Owners Association (IPOA) was established in 1993, and is the National Representative Organisation for property owners in the private rental sector (landlords). We promote professionalism, educate and advise property owners on the day to day running of their rental properties, and all aspects of legislation and compliance. We campaign and lobby for change and look for fair and balanced treatment for landlords from Government, service providers, media etc. A non-profit organisation, funded by landlords subscription, we hold information evenings throughout the country. We issue quarterly newsletters, monthly emails, and produce an annual yearbook/diary. We supply legal documents, for example tenancy agreements, rent books, termination notices, etc. Our offices are open 5 days a week 9-5 with a drop in facility, phone contact is available during these hours, and access to our comprehensive website is available 24 hours a day.

History

In 1999, the IPOA were invited and accepted with 6 other organisations to serve on the Commission on the Private Residential Sector. A package of measures was negotiated, and while not all were palatable to all parties, they were agreed to and signed off as a reasonable compromise, and the Commission Report, produced in 2000 is the basis of the current legislation. The Residential Tenancies Bill 2003 was drafted, guillotined without adequate debate and amendment, and signed into law (Residential Tenancies Act 2004). The dispute resolution service of the PRTB was put on a statutory basis and landlord/tenant disputes were no longer allowed to go directly to the Courts.

The PRTB commenced processing disputes but there were teething problems and cases were taking too long to resolve or to hear (up to 3 years). However, the processing of cases has improved significantly, but it is still too slow and unable to affect the necessary efficiency to handle urgent matters. The difficulties encountered require amendment of the Residential Tenancies Act 2004.

The Residential Tenancies Act 2004 is a very comprehensive and lengthy piece of legislation which was designed to incorporate a quick and easy dispute resolution process. There are currently 251,000 registered tenancies with 171,000 landlords housing approximately 550,000 tenants.

In 2010 - 230,000 tenancies registered with the PRTB and there were 958 deposit retention cases taken in 2010. This is less than half of one per cent of all tenancies registered.

- 230,000 tenancies registered
- 958 deposit retention cases
- Less than half of one per cent of tenancies registered

958 21% landlords were allowed to keep the full deposit

37% of cases, landlords were allowed to retain part of the deposit

58% of cases, landlords were allowed to retain all or part of the deposit

This demonstrates a functioning dispute resolution process.

In 0.04% of tenancies, there is a dispute. In 99.96% of tenancies no deposit disputes arise.

The vital question that needs to be answered is in how many cases were the PRTB unsuccessful in getting the deposit refunded to the tenant and how much money is concerned.

We need proper research, and hard statistics, and evidence. This is an emotive issue but a decision needs to be made in a rational manner based on actual facts and figures.

99.96% of deposits are refunded. 0.04% of cases are disputed and are adjudicated upon, how many of these cases that are settled in favour of tenants are not paid? This information is critical to making an informed decision.

In the past, some landlords withheld deposits unfairly and now all or any withholding must be justified and rightly so, see our rent book insert (IPOA deposit refund form). In 2010, the PRTB were requested to enforce 241 deposit cases, this is 0.001% of all registered tenancies. The figures do not show whether it was the landlord or the tenant who made the request.

Efficiency

Time is of the essence in dealing with deposit refunds, while it is a fact that 99.96% of deposit refunds are dealt with in a prompt manner, efficiency is required in the 0.04% of disputes that arise. The time taken to process cases needs to decrease in order that tenants can receive their deposit back in a timely manner. New Zealand resolve mediation cases on average in 7 business days and at Tribunal Hearings in 19 business days. England and Wales resolve cases in 6-8 weeks.

To this end, the PRTB need:-

- The Residential Tenancies Act 2004 to be amended urgently, to expedite the process thereby reducing the time and cost of prolonged hearings.

It must also be noted that cases taken for disputes can currently cost €8000/9000 to Tribunal Level for a deposit of €400. This is not a cost effective situation, amending the Residential Tenancies Act 2004 can reduce this significantly.

Survey Results - Tenants Satisfaction

Labour Party Survey Private Rented Accommodation - 91% of tenants rated landlords as fair to very good.

Millward Brown Survey - 92% of tenants had a satisfactory relationship with their landlord.

PRTB Commissioned Report - Students in Private Rented Accommodation - 94% of students had a good relationship with their landlord.

Other Jurisdictions

There are Deposit Protection Schemes in England, Wales, and in New Zealand, but none of these have the comprehensive legislation that is already in place in Ireland to deal with deposit retention situations.

New Zealand has a disputes rate of 12%— it costs 32m dollars to administer. They resolve mediation cases within 7 business days and in just 19 business days for Tribunal Hearings.

England and Wales had no legislation to deal with disputes prior to the introduction of the deposit protection legislation in 2007.

In 2009 - 73% of landlords in England and Wales protected deposits. 27% of deposits were not protected in spite of legislation. Some landlords stopped taking deposits but take two/three month's rent in advance.

Scotland is considering introducing legislation based on the Residential Tenancies Act 2004.

Any type of Deposit Protection Scheme will cost money to set up and run. It would also involve time and energy inputting information and/or filling out forms. Running rental property is already very time consuming and a landlord's time managing a rental property is not an allowable expense.

Like every sector in society, there will always be a proportion who will work outside the law. Landlords will opt out of the system and not secure their deposits as is the case in England and Wales. What in effect will happen is that the property owners that always strive to operate in a professional manner, will continue to do so, and would end up with additional costs and bureaucracy, and the PRTB will still have to deal with those cases where the deposit is not protected.



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Important Points

- The Residential Tenancies Act 2004 requires immediate amendment to facilitate a speedier dispute resolution service.
- In-house adjudicator/mediators need to be on staff to deal with cases.
- 99.96% of tenancies have no problem with deposits.
- Statistics are required to show how many determination orders have not been satisfied on completion of the dispute resolution service and the amount.
- .001% (241) of deposit retention cases have requested enforcement.
- 99.999% of registered tenancies refund deposits.

In conclusion, Chairman, introducing a Deposit Protection Scheme in Ireland is unnecessary, would be extremely bureaucratic and cumbersome for the .001% of cases outlined. Landlords would require a Rent Protection Scheme as hundreds of thousands of euro have been lost through cases that have gone through the PRTB, where tenants are over-holding and not paying rent etc. Attached is a non-exhaustive list of Determination Orders that have never been satisfied amounting to over €200,000.

Chairman, Committee, thank you for your kind attention."
A lengthy questions and answers session followed.

Fire safety Regulations in Rental Accommodation

There are almost 10,000 domestic fires in Ireland every year resulting in a preventable loss of life. Property damage can be greatly reduced or even eliminated by early detection. On average, 46 people die in the Republic of Ireland each year from fire. Smoke alarms have been found to be present in less than 40% of fatal fires and only 1/3 had units in working order.

There are currently 235,000 rental properties in Ireland and from a sample of 1,000 inspected in 18 months by Professional Tradesmen Ltd., less than 3% were in compliance with the basic Fire Safety Regulations. Did you know it is the Landlord's responsibility to ensure that the correct fire safety equipment is fitted in a property and that it is in good working order? Many rental property owners are unaware of the regulations but that's no excuse. Every rented accommodation unit must have a

minimum of 2 long life smoke alarms and a fire blanket.

Do you want to be assured of your tenant's safety, prevent possible interruptions to rental income and preserve the value of your asset? Then you should seriously consider further investing in a heat alarm which can operate in a kitchen – the source of most domestic fires, a fire extinguisher which can be used to limit fire damage and a carbon monoxide alarm for occupant safety.

Now there is a simple solution: exclusively available from Professional Tradesmen Ltd., is a tenant Safety Regulation pack which contains the minimum requirements to comply with regulations. There is also a complete Tenant Safety Solution pack consisting of 2 long life optical smoke alarms, a fire blanket, a heat alarm, a carbon monoxide alarm and a fire extinguisher. This pack in a rental property will exceed the basic requirements of Housing Regulations and safeguard the wellbeing of tenants. Available online at www.professionaltradesmen.ie

Are You Aware of the New Fire Safety Requirements under the Multi-Unit Developments Act?

Are you a residential developer, tenant or do you represent an Owners' Management Company? If so, this article is written for your attention and you should be aware of the requirements of the recently introduced Multi-Unit Developments Act (MUDA).

The MUDA came fully into operation on 1st of April 2011 and adds to a number of existing legislative requirements which residential and commercial building owners, operators and managers should be aware of. A Multi-Unit Development is defined as a development within which there exists 2 or more residential units and is designed such that amenities, facilities and services are to be shared.

The purpose of this article is to raise awareness by highlighting the relevant fire safety requirements under fire safety legislation relevant to residential premises which are under third party management control. The aim is to assist responsible persons in discharging their obligations. There are other fire safety requirements under these acts and regulations which may be relevant to you so it is advised that you consult the legislation or seek advice from a professional if in doubt.

How does it impact me?

The MUDA legislation primarily impacts you if you are:

- A developer selling a unit within a MUD. It will not be possible to do so if the common areas of the MUD have not been transferred to an OMC which can lead to conveyance delays.
- An OMC in charge of a MUD. The MUDA assigns responsibility of the common areas of the MUD to you and details other requirements that must be adhered to in relation to the proper upkeep of the relevant areas.

How do I ensure I comply and who is responsible?

The table below identifies the main duties set out within the MUDA for the developer and the OMC; note that it is not exhaustive.

Ensure property let under the RTA 2004 is registered.

Deposits are taken for damage above normal wear and tear.

Complete Tenant Safety Solution



It is the Landlord's responsibility to ensure that a rental property meets minimum fire safety regulations. This solution will do just that and potentially protect the rental income and value of the asset

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| Responsible Party | Responsibility |
|-------------------|--|
| Developer | <p>Ensure that the common areas of their MUD have been transferred to an OMC prior to the sale of a unit.</p> <p>Ensure that the OMC to which they are transferring ownership to have sufficient powers to carry out their duties in relation to the MUDA.</p> <p>Obtain a certificate from a suitably qualified person that the relevant parts of the MUD have been constructed in compliance with the Fire Safety Certificate.</p> |
| OMC | <p>Prepare and circulate to its members an annual report that details the fire safety equipment installed and the procedures in place for maintenance of same.</p> <p>Prepare and circulate to its members an annual report that details the fire safety equipment installed and the procedures in place for maintenance of same.</p> |

Note that the "certificate" referred to in the table above is typically an opinion on compliance prepared and signed by a chartered fire engineer or architect. It should only be issued once the engineer/architect is satisfied that, following an inspection, the building complies with the Fire Safety Certificate for the building design which was obtained from the local fire authority.

The question of who is responsible for fire safety in the common areas of residential premises has never been explicit, causing problems for the Fire Service. However, the introduction of the MUDA has since clarified that the responsibility, once ownership has been transferred, lies with the OMC.

The existing legislation which apportions responsibility for adequate life safety measures in buildings is the Fire Services Act. This legislation was introduced in 1981 following the Stardust nightclub fire disaster in which 48 people were killed.

The act states that it is the person having control over the premises that is responsible but also states that where an offence committed by a body corporate is proven to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person being a director, manager, or secretary of such body, that person or the person so acting as the case may be, shall also be guilty of that offence.

The Fire Services Act affords powers of inspection to the Fire Authority and allows them to issue notices of prohibition (regarding the use of the building or part thereof) or improvement. People found to be in contravention of the act can be fined up to €130,000, be imprisoned for a period of two years or both.

It should be noted that the final decision in terms of who is responsible for a specific scenario will be investigated and decided by a judge on a case by case basis.

What are the common problems?

Fire safety issues within common areas of residential premises can vary, however, the more common ones are as follows:

- Inadequate first-aid fire-fighting equipment. Appropriate fire extinguishers should be provided throughout all common areas.
- Poor maintenance and testing leading to inadequate:
- Fire detection and alarm systems,

- Emergency lighting and escape signage.
- Incorrect storage of materials.
- Inadequate means of escape due to:
- Routes becoming blocked (internally and externally),
- Final exit doors locked or difficult to open,
- Confusing fire safety signage.
- Ad-hoc works which erode the original fire safety strategy such as additional/new services penetrating fire resisting walls/floors.

All of the above items are potentially punishable under the fire Services Act.

Another main problem is a lack of knowledge regarding the fire strategy for the building and the systems within it which are designed to protect life. A fire safety register should be maintained on the premises containing the fire strategy for the building and detail the fire safety equipment on the premises and their maintenance schedule.

Summary

Given that the vast majority of deaths as a result of fire occur within residential premises, any legislation whose aim is to improve standards of safety is welcomed by the fire safety industry.

The enactment of the MUDA thereby removes any ambiguity in relation to the responsible party for ensuring that common areas of residential premises achieve an adequate level of fire safety.

The MUDA clarifies the responsibility issue but it is important to appreciate that there has existed a fire safety requirement under the Fire Services Act since 1981. As a result of the slow-down in the construction industry, the Fire Service now have more time to dedicate themselves to inspecting existing premises than ever before.

In order to avoid any delays in conveyancing, potential closure, major unforeseen costs or prosecution, it is essential that appropriate fire safety provisions are in place within your building.

If you are in any doubt regarding your obligations or have queries of a technical nature in relation to fire safety, the best advice is to seek a professional opinion from a fire safety engineer. We can not only assist with the interpretation of the legislation relative to your situation and provide you with the most appropriate advice but can also develop cost-effective solutions which are sympathetic to the existing nature of the premises whilst maintaining dialogue with the fire service.

John Noone - Senior Fire Engineer at Arup
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NPPR - If you have not paid your liability at Dec 2011 is €1600

What happens if I don't pay?

A person who does not pay a charge within the relevant two month period leaves themselves open to prosecution by the Local Authority to whom the payment is due. A late payment fee will also arise if payment is not made within the one month grace period - see above. Furthermore, both the €200 charge and any accumulated late payment fee will be a charge against the property concerned.

Please note that non payment of a charge and any associated late payment fees will be a charge against the property concerned and one which will continue to be such (for twelve years after the charge or late payment fee concerned became due) even were the property in question is to be sold. In these circumstances, the owner that originally incurred any outstanding charges and late payment fees would continue to be liable for the outstanding charges and late payment fees in addition to the new owner of the property.

The Act provides that, if a charge is not paid within a month after the last date for payment, a late payment fee will apply for every month or part of month that the €200 charge remains unpaid. For 2009, this means that the late payment fee will apply to all payments made after 31st October 2009 and for 2010 it will apply to all payments after 30th June 2010. The late payment fee amounts to €20 per month or part of a month and will continue to roll up as long as the charge remains unpaid and the amount involved can be substantial. The below table

outlines the charge and the corresponding fees for each year that have been incurred at a particular month.

| Year | Dec 2010 | Jan 2011 | Feb 2011 | Mar 2011 | Apr 2011 | May 2011 |
|-------|----------|----------|----------|----------|----------|----------|
| 2009 | €480 | €500 | €520 | €540 | €560 | €580 |
| 2010 | €320 | €340 | €360 | €380 | €400 | €420 |
| 2011 | - | - | - | - | €200 | €200 |
| Total | €800 | €840 | €880 | €920 | €1160 | €1200 |

| Year | June 2011 | July 2011 | Aug 2011 | Sep 2011 | Oct 2011 | Nov 2011 | Dec 2011 |
|-------|-----------|-----------|----------|----------|----------|----------|----------|
| 2009 | €600 | €620 | €640 | €660 | €680 | €700 | €720 |
| 2010 | €440 | €460 | €480 | €500 | €520 | €540 | €560 |
| 2011 | €200 | €220 | €240 | €260 | €280 | €300 | €320 |
| Total | €1240 | €1300 | €1360 | €1420 | €1480 | €1540 | €1600 |

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd) announced in the Dáil that the Local Governments charges Act 2009 is to be reviewed and the exemption for landlords renting under the Rental Accommodation Scheme is to be removed so they will be liable for the payment in

2012. It is also intended to provide for a €10 charge on over-the-counter transactions in respect of the NPPR.



UIPI Update

Our involvement in the UIPI and particularly the European Affairs Committee has resulted in a heavy work load. Detailed proposals are submitted to the Head of European Affairs on a regular basis in order to ensure our views are heard in property related matters. Our input as a Nation is extremely important as the view of Ireland is being presented united with all other European Member States and articulated by our head of Public Affairs, Emmanuelle Causse in a very strong and clear manner. It is vitally important that Property Owners are not ignored by the European Union.

A number of Events were held by the UIPI in the last quarter of 2011, including the National Landlords Association's General Conference in Manchester, a Meeting in Brussels and International Property Day was celebrated in Liege in December.

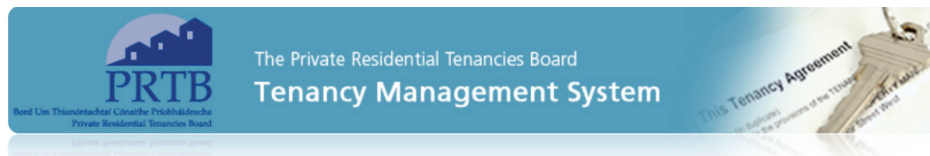
IPOA Digest

The recently enacted Multi-Unit Development Act 2011 requires an owners' management company to prepare and furnish to each member an annual report including, among other things, a statement of income and expenditure relating to the period covered by the report, a statement of the assets and liabilities of the owners' management company and, where applicable, details relating to the operation of any sinking fund established for refurbishment, improvement and non-recurring maintenance. I have no function in relation to this legislation which comes within the remit of my colleague, the Minister for Justice and Equality - Phil Hogan TD, Minister for the Environment, Community and Local Government.

One of the main features of the Rental Accommodation Scheme (RAS) is that local authorities, in sourcing accommodation for households, co-operate with the private and voluntary sector and enter into contractual arrangements to secure medium to long-term availability of rented accommodation. It is a matter for each local authority to negotiate appropriate contracts to suit their needs. Under the Social Housing Leasing Initiative (SHLI), leases of between 10 to 25 years can be entered into by either local authorities or approved housing bodies to secure accommodation - Willie Penrose TD, Minister for Housing.

The people who will be affected by the introduction of water charges deserve that the Cabinet should settle on a line before we hear about changes. The proposal for water charges has been a plan afoot for about 18 months yet it is remarkable that it still appears that there is no great clarity about what will happen in that respect. The Minister said that water charges will be introduced and that there will be a flat fee, charge or rate from January next but nobody seems to be clear about how precisely people will be charged for water thereafter - Senator Ronan Mullen (Independent).

The home loans of at least 18,000 "restructured" mortgage holders continue to increase as they struggle to pay their debts - Irish Examiner.



LANDLORDS : On – Line Registration Service is now available ! www.prtb.ie

Landlords!

You can now register your tenancies on line with The Private Residential Tenancies Board, the PRTB. Log onto WWW.PRTB.IE

If you are letting property for residential purposes you **must** be registered by law. Online registration is quick and easy. Simply logon to 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.

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