

# IPOA News

Official Newsletter of the Irish Property Owners' Association, the National Landlords' Representation Organisation • IPOA NEWS - Volume 26 Issue 12: July 2012

## EDITORIAL

Recently, we have read about the rental market stabilising, particularly in the greater Dublin, Cork, Limerick and Galway areas. This is quite evident and good news; we also see an upward trend in rents, e.g. €650-€700 or €900-€1000. While this is the case, it demands well presented units in good decorative order and up to standard.

European trends seem to be catching on in Ireland, with units now being offered unfurnished which allows property owners flexibility in not having to supply and maintain contents, while it lets the tenant furnish according to their own needs and taste. The income received is lower than when furnished, but the letting is for longer periods/contracts.

We mentioned previously a strong demand for properties suitable for people with disabilities - while initial fit out can be costly, tenants stay longer and pay competitive rent.

While on the subject of rent, we cannot ignore the recent capping of rent by Minister Burton. Once again, the tenant is being used as a stick to beat the property owner into submission, but this time, it has not worked so well, as many property owners are unable to set rent at an unaffordable level. As an organisation, we have been concentrating on the legislation which states market rent should be paid, together with outlining the disruption to our tenants with large scale movement of people who are being discommoded from their home patch, disruption of families moved to areas that they are not familiar with schools, transport, etc. We have been in talks with tenant groups, homeless organisations, political parties, as well as Ministers, all in an effort to get these unacceptable reductions reversed. We need Rent Supplement to be paid directly to property owners, without deductions and at market levels of rents.

It is interesting to note the huge increase of people living in rented accommodation. There are 307,000 units of accommodation in the private rental sector with some 730,000 tenants, compared to Local Authorities which only supply 129,000 units with some 320,000 tenants who are state supplied, and yet, the private rental market is not treated as a business, and is being regulated and taxed out of existence.

Would someone in Authority please note the valuable contribution we are making to society and treat us fairly?

*Stephen A. Faughnan*  
Chairman

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## Information Meeting January 19th



**P. A. Wynne**  
QW Financial Solutions

An information meeting was held for members in the Red Cow Hotel on the 19th January 2012. Over 500 members attended. A number of issues were raised at the meeting including Rent Supplement reductions, bin charges and Greyhound, standards in rental accommodation, and the Household Charge.

Tom O'Brien, IPOA Subcommittee on Economic Assessment, gave an account of the work carried out by the Association in challenging the withdrawal of the Section Relief.

Tommy Quinn and Padraig Wynne of QW Financial solutions gave a practical guide to dealing with bank debt.

Ross Maguire SC of New Beginning also spoke to the members present on the debt situation and buy- to-let investments.

## AGM 30th May 2012

The IPOA AGM was held on the 30th May 2012 at 7.30pm in the Red Cow Moran Hotel. Over 300 members attended. The statutory obligations of the Annual General Meeting were dealt with quickly, including the acceptance of the Minutes of the previous meeting, the Financial Statement, Election of the Committee, and nomination of the Accountants. The Chairman's Report detailed the work carried out by the Association, including submissions made, meetings held, issues facing property owners, and media coverage.

The first guest speaker was Arthur Mullan Solicitor, who discussed Senior Counsel's Opinion on the proposed challenge against the State on the tax treatment of the private rental sector. It was decided on the night that an Internal Committee be set up which will report back to the members with recommendations, and a decision will be made by the members at the next meeting in September.

The second Guest Speaker was David Hall from New Beginning. David outlined the debt problem facing the members and his experience of dealing with the banks. He touched briefly on the draft insolvency legislation.

This was a thought-provoking meeting and finished at 9.35pm.



## Meeting with Minister for Environment 22nd February 2012

A delegation from the IPOA met with the Minister for Environment Phil Hogan on the 22nd February 2012. An outline of all the difficulties facing property owners were detailed, particularly the problems with the NPPR, the fact it is not tax deductible, the issue of per unit in bedsits, and the horrendous penalties. An amnesty was requested for

people who have not already paid it, or who have houses in units and only paid once. The Minister stated that there would be no changes at the moment, and that people with problems should contact their local authority.

The payment of the expected property tax was debated, and the IPOA would get a chance to put forward their views to the special Committee headed by Don Thornhill which was convened to work on a fair way to introduce a property tax.

Difficulties with the following were outlined (and the Minister was familiar with each one): PRTB, BER, Banks, Reduction in Mortgage Interest Allowable and the difficulty of the Household Charge and NPPR per unit.

Stephen outlined the difficulties members were having with the PRTB, the delays, the money being lost to landlords, and the suffering as a result of anti-social behaviour. A list of amounts due to landlords who have never been paid their rent following the Dispute Resolution Service of the PRTB was also given. The Minister said that this will be dealt with when the new legislation was introduced and the importance of the speed of this was emphasised.

The issue of PRSI on rental income was also discussed. No clarification was given on this issue.



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





### Meeting with Minister for Housing

The IPOA have had a meeting with the Jan O'Sullivan TD, Minister for Housing on the 19th April 2012. Issues facing the private rental market were discussed. The problems with the Residential Tenancies Act and the difficulties facing landlords with non-paying or anti-social tenants were outlined. The Minister was aware of the difficulties and stated that the amendments to the legislation are on the A list and will be published by late summer.

The abuse of Rent Supplement payment was also raised. The Minister assured us that from January 2013, a new system will be rolled out where Rent Supplement will be paid directly to the landlord which will reduce problems with rent arrears and help prevent fraud.

Refurbishment and standards were also discussed, and the difficulty around the self-contained element of the standards, coming into effect next year, was highlighted. Traditional bedsits that do not have self-contained bathrooms will no longer be allowed to be let and tenants in these properties will have to find alternative accommodation. The IPOA made a request that in view of the financial crisis and difficulties around planning, that the commencement of this element of the standards be delayed. The Minister stated that there would be no delay and all properties have to be self-contained by 1st February 2013.

### Rent Arrears Update

Members feedback indicates that there is a growing level of rent arrears being experienced by landlords. It should be noted that when bringing a case for rent arrears on part 4 tenancies (or further part 4 tenancies), the following steps should be adhered to:

3 Steps are required

1. Contact either verbally or in writing should be made with the defaulting tenant and they should be advised that they are in rent arrears in the sum of (amount outstanding) and further advising that in the event of the arrears not being brought up to date the tenancy will be terminated. (Such communications need to be recorded in your diary, the date needs to be noted for use in support of any case that may need to be taken)
2. Issue the notice for non-payment of rent, 14 day notice
3. Serve a notice of termination for rent arrears

Ensure that you keep identical copies of each notice for your records – you may need them if a case has to be taken to the PRTB

If you have any queries or need copies of the letter or notice of termination please contact the office.

### Meetings with Threshold

There are a number of similar items that the IPOA and Threshold would like to see implemented in the private rental market. To this end, we have had a number of meetings with Threshold to begin jointly lobbying. We sent a joint letter to the Minister for Housing requesting that all Orders made by the PRTB should be enforced if they have not been complied with. Our joint stand is that all cases should be enforced. The idea of a landlord or tenant having to enforce is unacceptable to both parties and believed to be impossible because of the information required from the PRTB and data protection issues.

Both organisations feel that the PRTB should have full time solicitors on staff, and enforcement should be dealt with in-house, which would be more cost effective than being contracted out to law firms

Both organisations agree that the Rent Supplement should be paid to the landlord in full, and directly by the Local Authority.

A second meeting was held jointly with the Minister for Housing Jan O'Sullivan and these points were emphasised.

### Meeting with City and County Managers

The IPOA met with the City and County Managers Association on the 17th April in Local Government House, Ushers Quay. Stephen introduced the IPOA and their function and detailed the recent difficulties facing the private rental market. The Managers understood the difficulties but stated that they could only implement Government Policy as laid down in legislation.

Stephen outlined that the IPOA need Rent Supplement to be paid to landlords directly and in full, and that the rent should be market rent. We were advised that the Local Authorities recognise the contribution of compliant landlords in providing private rental accommodation. Local Authorities are aware of a small segment of the private rental market which are doing a great injustice to the majority of compliant landlords. The system is moving towards a model where they will pay in full and directly to landlords under the new Housing Access Programme, but the Local Authorities would expect a discount on market rent as they will be paying landlords directly. A 20% mark down on market rents is the amount they are thinking of.

They stated that there was patchy take up of the Rental Accommodation Scheme and would like the IPOA to actively support them in their endeavour to move tenants to the RAS, to ease their transition and assist the delivery of the service.

The issue of the expected property tax, waters charges and the "user pays principle" was addressed. The Managers stated that they will need to look at the contracts to include these legitimate charges. They may have to include clauses in the Housing Access Programme to facilitate these.

The problems with the NPPR and the difficulties with stopping the penalties and allowing phased payments were discussed. The Local Authorities have no discretionary powers in this respect and can only implement the legislation as laid down by the Government. They cannot stop the penalties unless the whole debt is cleared.

### The Household Charge

The Household Charge is an annual charge introduced by the Local Government (Household Charge) Act 2011 which is payable by owners of residential property, although rental contracts can provide for the



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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

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Charge to be passed on to tenants as it is levied for the provision of local services. It is a matter for owners of residential properties to register and pay the Household Charge on or after the 1st of January 2012. The charge can be paid by logging on to [www.householdcharge.ie](http://www.householdcharge.ie).

Item	JAN 12	FEB	MAR	APR	MAY	JUN
Standard Penalty	€100			10%	10%	10%
Interest				1%	1%	1%
Total				€111	€112	€113

	JUL	AUG	SEP	OCT	NOV	DEC
Standard Penalty	10%	10%	10%	20%	20%	20%
Interest	1%	1%	1%	1%	1%	1%
Total	€114	€115	€116	€127	€128	€129

### Question Raised in the Dail 4th July

202. Deputy Sandra McLellan 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 by making it a condition of the tenancy agreement; and if he will make a statement on the matter

Minister for Justice and Equality (Deputy Alan Shatter): Under the Local Government (Household Charge) Act 2011 and the Local Government (Household Charge) Regulations 2012, an owner of a residential property was required to pay the household charge by 31 March 2012 unless otherwise exempted or entitled to claim a waiver. Section 1 of the Act provides a definition of "owner" for the purposes of the Act. 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.

### Licensing Of Property Service Providers

The Property Services Regulatory Authority was established on a statutory basis on 3 April 2012.

One of the main functions of the Authority is the licensing of Property Services Providers.

A person does not need a licence from this Authority to let or sell their own property/land. Not requiring to be licensed extends to partners where a partnership is involved and to the directors of company where a company is involved. Employees of a partnership or company would require to be licensed if they let the property.

The Authority took over the licensing of Auctioneers/Estate Agents and Letting Agents and introduced the new licensing regime for Management Agents with effect from the 6th July, 2012.

A Guide to Licensing is available on their website [www.npsra.ie](http://www.npsra.ie) and clarification is available directly from them.

It is vitally important that members are aware of their responsibility when letting property, and if in doubt contact:-

Property Services Regulatory Authority	Telephone: 046-9033800
Abbey Buildings	Fax: 046-9033888
Abbey Road	Lo-Call: 1890-252712
Navan, Co Meath	Email: <a href="mailto:info@psr.ie">info@psr.ie</a>

### Free Advertisement

A free advertisement has been offered to IPOA member who have properties available for student letting. For each Landlord to avail of this free advertising, they simply have to log on to [www.propertycheck.ie](http://www.propertycheck.ie) and use the promotional code IPOA after they have registered and uploaded their property. Should you have any difficulties -Contact Justin Kavanagh, The Tower, Trinity Technology and Enterprise Campus, Grand Canal Quay Dublin 2, Ireland. Office: 003531 6877166 Email: [info@propertycheck.ie](mailto:info@propertycheck.ie) Web: [www.PropertyCheck.ie](http://www.PropertyCheck.ie)

### Dealing with Debt

Property owners in recent times have been exposed to a crisis in debt that most never considered would visit their door. Well it can, and it has!

The banks now have a handle on the developers and large borrowers, and bit by bit, they will get down to the smaller borrowers and others. As this happens, they will suddenly apply the limits to those that do not yet realise how much property has devalued over the past 3 to 4 years. We read figures of 70% devaluation and we believe this is true, and when you have a look at your own cases in this context, you will soon realise that you too may be facing difficult times ahead, particularly those who purchased 2nd and 3rd properties based on the equity in their home. Reduced rents, higher operational costs, reduction in allowable interest by 25% and those who were on interest only now face the prospect of interest and capital, and the reality that the market cannot help you as it does not exist. You may soon be pursued by banks to address the problem. The question is where do you turn, what do you do, or how can you get this into a manageable situation, or can you at all?

Do not ignore your basic correspondence and be very responsive in dealing with it. Get advice from your accountant or someone with wide experience in this area, because you need to be cautious of the dangers which you could be exposed to if you ignore or misunderstand.

The banks and financial institution have a Code of Practice for dealing with customers who are facing a debt crisis and you would need to be aware of the "Code of Conduct for Lending to Small or Medium Enterprises" [www.centralbank.ie](http://www.centralbank.ie). While the Code spells out the manner which the bank deals with you, it does not reduce the debt, and it is very important that you are aware and understand your particular position. Banks will look for their pound of flesh and you need to be prepared to handle the situation. A good adviser is essential and while it may not reduce the burden, it will certainly give you a good position to bargain with. Areas you may need to consider are:-

- Extending your loan term
- Extending the interest only period
- Giving the financial institution extra security (if available)
- Look at all possible saving in outgoings
- Do you have savings and are they in a separate institution? If your savings are in the same institution, you are exposed to having your savings transferred or even taken without your authority.

The question arises at a time of crises who do you pay first - the bank or Revenue? Your personal circumstances may dictate this.

Do not be shy to point out to the bank that you were given great liberty when you were buying/borrowing and you need them to understand this now.

If you are meeting the bankers make sure you have someone, with your interest in mind, with you and that you copy all correspondence and record all conversations. While you may think it is a good idea not to disclose all your affairs, remember the banks have wide powers to access information and if your bank discovers something not disclosed, it will cast a very poor light on your case.

### Dealing with the Banks

- Recognise and realistically accept your own/your business's overall financial position after assessment i.e. Under Water/Over Water/Line Ball both from an assets and/or income perspective.
- Assess you and your family's living requirements.
- How can you cut your costs and/or increase your income
- Always check your loan offer letters – they will show you amount/interest rate basis/security/review dates/clearance dates etc.
- Always ensure you have copies of your security documentation i.e. any personal guarantees/mortgage documents, etc. - if not, request them again from the bank pre any negotiation (including original offer letter as well, if you have lost it).
- Joint/company accounts: A bank always needs a mandate (or an authority) to open such accounts – request a copy. If they cannot produce it, or have not got it, this may mean the authority was not there originally - it should give you a little more wriggle room.

There have been instances where banks cannot provide such documentation as above, and this obviously should put you in a stronger negotiating position

Numbers end of the business: BE PREPARED.

- Know your business income/rent roll quantified and broken down.
- Know your expenses.
- Know your net income.
- Know your tax position.
- Know what you are taking from the income yourself.
- Ultimately, these numbers will dictate what you can pay back to a bank.
- Outside Income: a bank will endeavour to 'get at' your outside income (i.e. PAYE/other business income) if there is/they see latitude. A good Accountant/Financial Advisor is always helpful here.



If in a semi stressed/fully stressed situation, you may be best to default and be then dealing with/moved onto the Arrears or Credit Management area of a Bank, as they are more used to managing situations like yours and possibly have more leeway.

- Don't agree to deliver what you cannot.
- Be upfront/honest with your information.
- Depending on debt level, use your Accountant or Financial Advisor to negotiate with you (or bring somebody).

### What are Banks doing:

- Rol Banks are generally co-operating with customers who are co-operating with them.
- Are continuing to accept interest or part.
- Are looking for asset disposal ongoing – always buy into it – it's a policy approach. Nothing selling anyway.
- Are not 'on the face of it' forgiving interest or debt – it may happen in time in some format or other.
- There is no blanket – one size fits all policy – each case is different and is dealt with as such.
- Non –Irish Banks are similar but some have a more open approach:
- Interest rates are more flexible - they do not have the funding premiums of Rol banks and have the capacity to work off lower rates.

### Note:

'Out of Contract' Loans will be moved off Tracker rates and/or margins will be increased if there is capacity.

If you are semi stressed/stressed, Banks (apart from PTSB) may not raise rates – as they have generally suspended their interest anyway and there is no point.

### Rent Supplement reductions

The cap on Rent Supplement is causing major problems for landlords and tenants. The IPOA have been lobbying to have these caps removed and allow for market rent as laid down in the Residential Tenancies Act 2004. We have discussed the problems arising from the reduced cap with Threshold and with the Minister for Housing. These caps have resulted in tenants in receipt of Rent Supplement not being able to compete on a level playing field when sourcing accommodation.

We have made numerous representations, and made a presentation at an all-Party meeting, hosted by Sinn Féin, highlighting the difficulties being faced as a result of the caps.

### Protect your investment from Organised Prostitution and those who rent/lease property for that purpose.

Criminals will do what they can to avoid being caught on or near properties that they use as brothels. They can reduce the risk of being caught by using properties they have rented or leased, usually in false names or by "front couples".

Section 11(c) of the Criminal Justice (Sexual Offences) Act 1993 makes it an offence for the lessor or landlord of any premises, or the agent of such lessor or landlord, to let such premises, or any part thereof, with the knowledge that such premises, or some part thereof, are, or is to be used as a brothel, or is wilfully a party to the continued use of such premises, or any part thereof, as a brothel. An Garda Síochána is concerned that those involved in organised prostitution are doing just this. We want to work with landlords to help protect them and their properties, and also to help make our communities safer for all.

### Cost to landlords when brothels are discovered

- Reduction in value and the reputation of the neighbourhood.
- Loss of revenue when bogus tenants/lessors are removed or evicted.
- Possible damage to property.
- Complaints from neighbours.
- Knowingly renting your property for the purposes of prostitution is a crime and may result in a criminal conviction.

### What can you do?

- Seek photographic identification.
- Check to see if it is false.
- Request referees and contact same.
- Obtain contact telephone numbers.
- Visit the property shortly after lease/tenancy is signed to be satisfied that the person staying there is the person who signed the lease/tenancy. Criminals sometimes use front couples who disappear after leases/tenancy agreements are signed.

- Check the property regularly.
- Look for payment through standing order/direct debit as opposed to cash.
- Speak to neighbours who can inform you of any concerns.
- All concerns should be reported to your local Garda station.

### Should you have any suspicions please contact your

- Local Garda Station
- Crimestoppers Phone 1800 -250025

### Legislation:-

Legislation is contained under the Criminal Law (Sexual Offences) Act 1993.

Organisation of prostitution.

### 9.—A person who for gain—

- (a) controls or directs the activities of a prostitute in respect of prostitution,
- (b) organises prostitution by controlling or directing the activities of more than one prostitute for that purpose, or
- (c) compels or coerces a person to be a prostitute, shall be guilty of an offence and shall be liable—
  - (i) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or
  - (ii) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both.

### Living on earnings of prostitution.

10.—(1) A person who knowingly lives in whole or in part on the earnings of the prostitution of another person and aids and abets that prostitution shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) If a judge of the District Court is satisfied on the sworn information of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for suspecting that any premises or any part of a premises is used by a person for the purposes of prostitution, and that any person residing in or frequenting the premises or part of the premises is living in whole or in part on the earnings of the prostitution of another person, he may issue a warrant under his hand authorising any member of the Garda Síochána, accompanied by other members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, and search the premises and arrest that person.

(3) A person who obstructs or interferes with a member of the Garda Síochána acting under the authority of a warrant under subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

### Brothel keeping.

### 11.—A person who—

- (a) keeps or manages or acts or assists in the management of a brothel,
- (b) being the tenant, lessee, occupier or person in charge of a premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or
- (c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets such premises or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel, shall be guilty of an offence and shall be liable—
  - (i) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or
  - (ii) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both.

### Landlords and Mortgage Debt – what solutions are there?

By Ross Maguire SC

Many property owners in Ireland face a perfect storm. On the one hand, they purchased assets at massively inflated prices; they are part of a currency that is far stronger than it should be for our economy; and to date, there is no system of personal insolvency in Ireland.

In addition to the above, expenses have increased with the introduction of various local service charges that cannot be written off against rental income; only 75% of interest on loans used to purchase the properties can now be deducted; and interest-only payments are being replaced with demands for capital repayment. Indeed, it may well be the case that residential buy-to-let owners are being unfairly discriminated against.

So what can a distressed residential property investor do? Many borrowers cannot afford the repayments on the loans and the value of the underlying assets has substantially decreased leaving huge negative equity positions.

The upcoming Personal Insolvency legislation offers real solutions. To begin with, in the case of rental properties, the requirement will most probably be to surrender the properties to the lender. The property will be sold, and at that stage, an unsecured debt (the negative equity) will crystallise. The Personal Insolvency legislation provides for Debt Settlement Arrangements (DSA). These are for unsecured lending and there is no upper limit on the amount.

Simply put, the borrower, through the offices of a Personal Insolvency Practitioner puts forward a proposal to pay the lender a certain amount per month, for a period of up to 6 years. The key to the DSA is the amount per month. The amount should be enough to allow borrowers get on with their lives. If the agreement is honoured for the period, the residual debt, no matter how great, is written off.

There will, of course, be questions relating to the family home. For people whose family home is at risk and who wish to preserve it, there is the Personal Insolvency Arrangement (PIA). This arrangement relates to secured debt not exceeding €3 million and is designed to create a situation where the family home is preserved, both through DSA type arrangements and through the use of restructuring of debt on the family home so as to make its retention possible. Like the DSA, it involves a proposal made through a Personal Insolvency Practitioner wherein the debtor agrees an arrangement with creditors for up to 7 years with the emphasis on retaining the family home.

If it is not possible to negotiate a DSA or a PIA (the lenders will have an effective veto) the borrower can apply for bankruptcy. The prospective legislation means that in 3 years, the borrower will, if he has been honest and open with the bankruptcy authority, be free from debt. During the course of the bankruptcy, the borrower will be able to maintain his income at a level necessary for his reasonable expenses. In many cases, this will mean that the borrower will keep all his income. It is also very possible in bankruptcy to retain the family home.

On the whole, the new legislation offers solutions for borrowers and gives people a chance to start again. The key to its success are the deals that come from it. Those deals must allow people to return to normal and sustainable levels of debt as soon as possible. This will greatly enhance the national recovery which, in turn, is of benefit to everybody.

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## NPPR

The Local Government Charges Act 2009 was updated in the Local Government Household Charge Act 2011. A number of key definitions have been changed and numerous small amendments have been made. These changes may affect your liability under the legislation. The definition of "dwelling" has been deleted from the 2009 Act which used to read as follows:-

- "dwelling" includes a building used, or suitable for use, by an individual as a separate dwelling, whether or not he or she shares or would be entitled to share with any other individual any accommodation, amenity or facility in the building or, as the case may be, the premises of which the building forms part.
- 2.—(1) In this Act, "residential property" means a building situated in the State used, or suitable for use, as a dwelling, including any house, maisonette, flat or apartment (including a bedsit).

These have been substituted by the following section:

### "Meaning of residential property.

2.—(1) In this Act 'residential property' means, subject to subsection (2), a building that is situated in the State and that is occupied, or suitable for occupation, as a separate dwelling, whether or not the occupier shares, or would be entitled to share, in connection therewith, any accommodation, amenity or facility with any other person, and includes—  
(a) a house, maisonette, flat or apartment (including the form of accommodation commonly known as a bedsit), and

(b) a building containing a bedroom to which paragraph (e) of subsection (2) applies.

2 (e) a bedroom that is let under a letting arrangement whereby the occupier of the bedroom is entitled to share with any other individual any other accommodation, amenity or facility in the building of which the bedroom forms part;"

The definition of owners in the 2009 Act has also changed:

"owner", in relation to a residential property, means—

- (a) a person (other than a mortgagee not in possession) who— (i) in the case of a residential property that is let under a lease or held under a tenancy for a term not exceeding 20 years, is entitled to receive the rent under that lease or tenancy, whether in his or her own right or as trustee or agent for another person," by substituting the following definition for the definition of "owner":
- 'owner', in relation to a residential property, means—(a) a person (other than a mortgagee not in possession) who—(i) in the case of a residential property that is let under a lease or held under a tenancy for a term not exceeding 20 years, is entitled to receive the rent under that lease or tenancy, whether in his or her own right or as trustee or agent for another person",

The definition of building has also changed and was previously "building":

- (a) part of a building, and (b) a structure or erection of any kind and of any materials, or any part of that structure or erection, but does not include a vehicle or a mobile home"

The new definition is 'building' including:

- (a) part of a building, and (b) a structure or erection of any kind and of any materials, or any part of that structure or erection, but excludes a structure that is not permanently attached to the ground, a vessel and a vehicle (whether mobile or not);",

Year	No of NPPRS	1	2-10	11-20	21-30	31-40
2009	Total Accounts	134,974	46,698	1,536	364	141
2010	Total Accounts	136,088	46,080	1,517	363	144
2011	Total Accounts	135,971	45,397	1,453	373	135

Charge	No of NPPRS	41-50	51-100	101-200	201-300	300-400	>400
2009	Total Accounts	58	113	25	0	0	1
2010	Total Accounts	62	116	29	1	0	1
2011	Total Accounts	67	117	36	1	0	1

Private rental contracts may include a clause allowing landlords to pass on the NPPR to tenants, as it is levied for the provision of local services.

## NPPR Question Raised Tuesday 26th June 2012

401. Deputy Mattie McGrath asked the Minister for the Environment, Community and Local Government the avenue that is available to a person who wishes to dispute their liability for the NPPR charge; the avenue available for a person to dispute or appeal penalty fees relating to the non-payment of the NPPR where they were not aware of their liability; and if he will make a statement on the matter.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): The Local Government (Charges) Act 2009, as amended, broadened the revenue base of local authorities by introducing a charge on non-principal private residences. The charge is set at €200 and is being levied and collected by local authorities. The Act places the onus on an owner of a residential property situated in the State to assess his or her liability for the charge in the first instance. Application of the legislation in particular circumstances is a matter for the relevant local authority. Where a property is liable and the charge is not paid by the due date, the legislation provides at Section 6 for late fees and penalties to be applied, which remain a charge on the property and continue to accrue until the liability is discharged. There is no provision in the Act for fees and penalties to be waived.

However, I have recently issued guidelines to local authorities in relation to the operation of the "care and management" provisions of the legislation in the context of individual situations where genuine hardship in having to discharge a liability in a single payment can be demonstrated. The guidelines set out the modalities for local authorities in relation to entering into payment arrangements for the discharge of outstanding liabilities in instalments over a specified period. Enquiries in this regard should be directed to the relevant local authority.

**Properties let under the Rental Accommodation Scheme are no longer exempt from the NPPR. Payment must be made for 2012.**

**The PRTB are not writing out to remind landlords to re-register their tenancy after the 4 years is complete. Make sure you know when your tenancy is finished to ensure that you do not incur a double fee.**

## IPOA Digest

Falling rents, the second-homes tax and crushing negative equity add up to a major problem for owners of apartments. Government figures show that 99,000 people own a second property with a further 35,000 owning three or more properties. Latest Central Bank figures show that close to 100,000 mortgages are either in arrears or have been restructured by banks -- that's more than one in 12 home loans. A major fall in rental prices is likely to see investors face more problems in paying loans on rental properties, which may lead to a spike in arrears and an increase in repossession by banks – Sunday Independent.

Rents in rural Ireland are being kept artificially high because of Rent Allowance and this issue must be tackled. In another version of this phenomenon, namely, the Rental Accommodation Scheme, or as I like to call it, the "Rental Accommodation Scam", some landlords in Roscommon are in receipt of double the current market value. The Government should tackle this issue before hitting the poor and vulnerable. – Luke "Ming" Flanagan TD (Independent, Roscommon-South Leitrim).

I have received a number of complaints from constituents who own a number of properties which are mortgaged and rented to tenants. Because of their difficult and stressed financial circumstances, they find they are not able to make the Non-Principal Private Residence charge payments to their local authority – Seamus Kirk TD (FF, Louth).

The definition of a "residential property" includes a bedsit. We need to examine that issue. If someone is living in a one room dwelling with a kitchenette and toilet in the same room, why should he or she pay €100 when someone living in a ten bedroom house in Foxrock is paying the same? They are realistic issues which need to be addressed – Senator Darragh O'Brien (FF, Dublin North).

Owners of Section 23 properties will still be able to shelter rental income from their property portfolio, but a surcharge of 5 per cent will apply to property investors with income of more than €100,000. "We'll live with that," says Stephen Faughnan, Chairman of the Irish Property Owners' Association, but he added that the €100 Household Charge is a "serious one for us". As a result of this, investors will see an effective 50 per cent increase in the €200 second home charge – both of which are not tax deductible. And for investors who have yet to pay the second property charge, which was first introduced in 2009, they could be facing a bill of some €1,600 once all the late charges are factored in. The scale of this charge means that some landlords will now look to levy it on their tenants, notes Faughnan, by introducing a €25 monthly service charge. Allied to this is the increase in Capital Gains Tax to 30 per cent in the Budget; along with other costs such as BER certification; certification with the Private Residential Tenancies Board; the reduction in interest relief on mortgages from 100 per cent to 75 per cent; and the proposed review of Rent Supplement which will take place in 2012. According to Faughnan, this is likely to lead to reductions in how much the Government will pay to supplement rent, which will place further downward pressure on returns – The Irish Times.

There is the option of selling up, taking a hit and simply getting out. "You can get out at a price – but it's not very attractive," said Stephen Faughnan, Chairman of the Irish Property Owners Association. For some, selling hasn't really been an option until now, given the scale of negative equity many people find themselves in. If you are left with a small balance when the property is sold, this could be a viable option, but if negative equity is too great, it's not generally feasible. And, of course, it is dependent on the property selling – The Irish Times.

For some beleaguered landlords, going bankrupt might be an option, depending on whether or not property loans are to be included in the forthcoming insolvency legislation. Stephen Faughnan, Chairman of the Irish Property Owners Association, asserts that landlords are going to consider it. "The viability of the sector is up for question at the moment. Certainly for a lot of people at the moment, insolvency will be a consideration" – The Irish Times

In Britain, local property taxes are paid by occupiers, rather than owners, which makes tax payer identification easy and therefore, quick and cheap. Collection levels are high at between 95pc and 97pc. Enforcement action is against the individual (occupier) not against the property – Irish Independent.

In The Irish Times, one writer asserted that "a lack of property taxes also contributed greatly to the property bubble... A property tax is therefore essential". But far from there being a "lack" of a property tax, around 40 per cent of the €3bn paid in Stamp Duty between 2004 and 2007 -- around €1.25bn -- was paid by homeowners (the same amount, interestingly, as was paid in January 2012 to Anglo bondholders). So the real cause of the boom-bust cycle was not the absence of any tax, but the explosion of credit caused by negative interest rates and poor bank regulation. Planning factors -- a myriad of failures that limited housing supply -- also contributed. The idea that a property tax would have stopped a relentless tidal wave of credit from producing a boom is misguided. The idea that a distressed market can suffer the imposition of a property tax that, according to the ESRI, could amount to €1,000, and have any chance of recovery is misdiagnosis – Marc Coleman in the Sunday Independent.

Analysis of Revenue returns show that tens of thousands of ordinary workers bought second properties during the boom. In 2009, almost 90,000 PAYE

workers filed tax returns on rental income. The Revenue figures show that in 2009, 65 per cent of taxpayers who returned rental income did so for one property; a further 30 per cent declared between two and five properties; 4 per cent made tax returns on between six and nine properties; 1 per cent declared more than 10 properties. The figures suggest that with the availability of easy credit, tens of thousands of people who were not professional, experienced property investors got into property in a big way in a remarkably short period of time, and are now under immense pressure – Sunday Independent.

The interest restriction on residential landlords introduced in the April 2009 Supplementary Budget was part of an urgent revenue-raising package aimed at stabilising the public finances. The reduction in the level at which interest could be claimed significantly reduced the cost of this relief to the Exchequer. I am informed by the Revenue Commissioners that the amount of tax foregone in 2009 (the latest year available) by allowing a deduction for interest on borrowings to be offset against all rental income assessable under Case V, Schedule D for both residential and commercial property was estimated at €745 million. This is a substantial outlay and increasing the relief for residential properties to 100% could result in an additional cost to the Exchequer of the order of €100 million per annum. Against a backdrop of significant reductions in tax expenditures in many areas to broaden the tax base, a 25% restriction on the allowable interest available to residential landlords does not seem an unreasonable measure and I have no plans to reverse the 2009 Act provision – Michael Noonan TD, Minister for Finance.

I request the introduction of an amnesty, not for the NPPR charge but for the surcharges imposed on those who do not register, which are extremely high. I know a person who genuinely did not realise there was a liability because the person's second home was leased – Senator Terry Leyden (FF, Roscommon-South Leitrim).

Senator Maurice Cummins, Leader of the Seanad (FG, Waterford) said: "The birds in the trees should know about the second home charge at this stage. There will be no reduction or no amnesty in that regard". Senator Terry Leyden (FF, Roscommon-South Leitrim) responded: "The birds in the trees are not paying it."

"Restricting landlord Mortgage Interest Relief for both residential and non-residential properties by 10% would bring in an estimated €75m, which together with the suspension of the unused Section 23 tax reliefs would more than offset the loss of €160m in additional tax revenues from the Household Charge, saving the exchequer up to €175m" – SIPTU President Jack O'Connor.

We would halve Mortgage Interest Relief for landlords, while simultaneously looking at proposals to cap rents, so that landlords cannot pass rent increases onto their tenants. Where there is genuine hardship for landlords, this should be dealt with through measures other than Interest Relief – Pearse Doherty TD (SF, Donegal South-West).

The Minister has completely rowed back on the plan to phase out Section 23 property. The 2011 Finance Act measures, which sought to ring-fence income that could be sheltered by these allowances, have been abolished by this Bill – Joan Collins TD (PBP, Dublin South-Central).

The rent limit review will have no impact on the income of a person in receipt of Rent Supplement. The impact of the change in the rent limits will be on the amounts received by landlords who rent to Rent Supplement recipients – Joan Burton TD, Minister for Social Protection.

Given the extraordinary fall in house values, it would be quite extraordinary not to have better value available and affordability in respect of Rent Supplement. The evidence is that landlords are responding by giving better rental value to taxpayers – Joan Burton TD, Minister for Social Protection.

Does the Governor of the Central Bank realise the 400,000 people who own second properties are not property developers, or the wealthy, but individuals who invested in properties as a form of pension scheme? – Senator Darragh O'Brien (FF, Dublin North).

It is logical enough to make a connection between the consumption of private services at an address and the use of local public services, so why is the Government making the non-resident owners liable for the charge, especially when these people are already liable for the higher NPPR charge, which also allegedly funds services that they receive no benefit from? – letter to The Irish Times from Paul Carroll, Clane, Co. Kildare.

Under the German letting model, landlords provide only a shell of an apartment and it is for the tenants to install the furnishings and fittings, from carpets to tiling to bathroom fixtures. We need to look at new ideas. A scheme whereby tenants can avail of a ten or even 20 year rental agreement, as in the German model, should be considered. There are advantages for both landlord and tenant in such a system. First, tenants can specify their requirements precisely, thus engendering a greater sense of pride in the property in which they will be living. More importantly, while they must provide the outlay for furnishings and so on, they will secure the property at a much lower rent. The landlord, meanwhile, has a secure leasing arrangement and does not have to worry about wear and tear and the replacement of household items – Senator Colm Burke (FG, Cork North-Central).



Tenants, per se, are not exempt from the Household Charge-- just those in Council properties. Although the €100 charge is placed on the home owner, your landlord may be within his rights to pass it on, in the same way he would bin charges or cable television fees. The Irish Property Owners Association (IPOA) says: "Many leases allow for the passing on of charges for additional services, including those rendered by local authorities". Obviously, some landlords will absorb the cost, but those with multiple units might not be able to afford to do so – Irish Independent.

As part of the ESRI's Renewal series, *Property Tax in Ireland: Key Choices*, was published outlining how a property tax might work and the effect it might have. It recommended an annual tax on owner-occupied residences (but not rented properties) based on the full value of the property, with exemptions for those below certain income thresholds – The Irish Times.

RTE aired a Prime Time programme on May 10 outlining some dire conditions in the private rental sector, consisting of four cases of the most exceptional circumstances. The impression was given that landlords all over Ireland are providing sub-standard accommodation, ignoring the real fact that landlords in Ireland provide 600,000 people with homes, over 95% of which are good quality and affordable. There are 250,000 tenancies registered with the Private Residential Tenancies Board (PRTB), 145,000 landlords and up to 600,000 tenants. There were 2,230 complaints lodged with the PRTB according to the latest available report (2010) — 59% by tenants, 37% by landlords, 4% others. This shows that less than 1% of registered tenancies have a difficulty and 1/3 of these cases are either settled, withdrawn by applicants, or deemed withdrawn due to non-response from applicants – IPOA letter in the Irish Examiner.

The taxation on rental income during the height of the boom involved a single tax rate of 41% income tax; however, with the more recent taxation additions of the Universal Social Charge (7%), PRSI (4%) and the newly introduced Property Tax in addition to the Second Home Charge, the effective taxation stands at 55.5% of rental income. Of more concern is the projected increase in both the newly imposed property taxes and the intended introduction of the Communication Tax (replacing TV licence) to be levied on residential property in 2014 is likely to raise the overall direct taxation burden to approximately 62.5% of rental income. The Government would need to look closely at the level of taxation that they now intend imposing on this important, if not critical supply chain of the housing market. Otherwise, the natural consequence may well be a significant exodus of the investor from the market who will seek out alternative investments where the taxation is less aggressive and more benign. Another unfortunate consequence may well be a steep increase on the already high Local Authority Housing waiting list which currently stands at just over 100,000 – Irish Examiner.

#### Submission to Property Tax Review Group

The IPOA had a meeting with the Property Tax Expert Group on the 29th of March. A case was made for the tax to be charged to the occupier as the occupier will benefit from the services provided. The difficulties facing the private rental market were outlined. It was important to ensure that fairness is included in any property tax that is introduced into this Country. Following the meeting a written submission was made to the Expert Group reiterating the points made.

#### 19% of households now live in the Private Rental Sector

#### UIPI Update

##### Energy Efficiency Directive: Game over!

The final political agreement on the Energy Efficiency Directive was reached on the 14th of June in the Trialogue. The UIPI was very pleased on the final outcome.

The UIPI did extensive work in the last year on behalf of property owners, especially on Article 3.a. in which we managed to influence deep renovation by introducing a bcost effectiveness requirement. On Article 8, our amendment helped avoid a systematic roll-out of smart meters, which is now conditioned to cost-effective and technically feasibility.

##### UIPI welcomes two new member organisations

During the last Executive Committee meeting on 21st of June 2012, UIPIs members unanimously accepted two new member organisations: the Hungarian National Union of Condominium and Landlords and the Slovak Property Owners Associations

The UIPI has now 29 member associations in 27 countries in Europe. It represents more than 5 million owner-occupiers and landlords in Europe owning more than 20 million dwellings.



#### Greek Government Abolition of Inheritance and Property Taxation in Greece

The 25th Annual Congress of Hellenic Property Federation (Pomida) and the 65th anniversary of the Athens Property Union were celebrated on the 26th January in Athens, together with the 85th Anniversary of the establishment of the UIPI.

We were delighted to hear good news from this occasion; inheritance taxation for families has now been abolished in Greece, regardless of the size of the estate. Parental donation taxation while the parent is still alive has also been abolished; a transaction duty of 1% takes its place. Portugal has also abolished inheritance Tax. This is a welcome development and it would be very useful if the Irish Government followed the example of our European neighbours and gave inheritance concessions where family property business are being passed on.

#### Renewable energy: National legislation in 4 Member States still not in line with EU rules

Increasing the share of renewable energy to 20% in the EU energy consumption by 2020 relies on the commitment of Member States to fully implement the requirements of the Renewable Energy Directive (2009/28/EC), which had to be transposed by Member States by 5 December 2010. Cyprus, Ireland, Malta and Slovenia have not informed the Commission of all the measures necessary to fully transpose the Directive into their national legislation.

Therefore, the Commission has decided end of June to send Reasoned Opinions to these Member States. If the Member States do not comply with their legal obligation within two months, the Commission may decide to refer them to the Court of Justice.

According to the Directive, each Member State has to reach individual targets contributing to the overall 20% share of renewable energy in energy consumption. Article 13 Paragraph 4 states that Member States shall introduce in their building regulations and codes appropriate measures in order to increase the share of all kinds of energy from renewable sources in the building sector. The Commission declaration does not specify on which aspects of the Directive the Reasoned Opinion focuses. Renewable energy is again a very high topic in Brussels. It would not be surprising to soon see a new recast for this directive.

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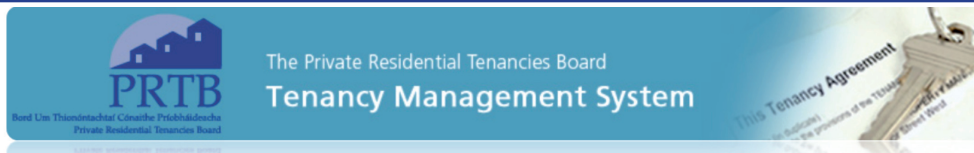
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## LANDLORDS : On-Line Dispute Resolution & Registration Service is now available !

### 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!

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## MEMBERSHIP APPLICATION 2012 IRISH PROPERTY OWNERS ASSOCIATION

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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: \_\_\_\_\_