

IPOA News

Official Newsletter of the Irish Property Owners' Association, the National Landlords' Representation Organisation • IPOA NEWS - Volume 27 Issue: July 2013

EDITORIAL



The IPOA is now in its 21st year of existence. During that time, delegations have visited Leinster House, Seanad Éireann, Government Departments, Minister's Offices, Taoiseach, Deputies, Senators, Civil Servants, and Local Authorities throughout the country on many occasions - all in pursuit of better conditions for property owners (landlords) nationally. We have had many encounters with legislators, while challenging many acts and planning more legislation.

As Chairman, it was my privilege to represent members on the various national and international platforms, and I wish to thank my colleagues on the Committees who, like myself, did all the work on a voluntary basis.

Now is the time to hand over the reins of the IPOA to the younger members who can update and re-organise the Association to modern and future demands. My 21 years since the foundation have passed by like a flash, but it gave me the opportunity to put into action many thoughts and expectations that dwelt in my busy mind, and the many successes that came as a result were very encouraging. Nevertheless, it has to be said that for historical reasons, landlords are not the most liked sector in society, which is a pity as we now provide some 800,000 people with homes of various makeups. We provide the State with affordable accommodation that houses the people who are supposed to be housed by Government. At the same time, we have been hugely overburdened with taxation down the years, much of it unfair, and now, more than ever, we are in danger of being further taxed and regulated out of existence. The future now is a mystery with the current banking crisis. Many will never be able to get their heads above water again and if they do, it will be other areas of business that are less regulated and more rewarding. Tenants and the State will be the losers.

I always believed that when you purchased a property for letting, it was a fine investment and that at the end of the day, retirement would be a much easier task. But now, you have to pay so many different taxes and charges on rental income - and if you sell, 33% CGT is charged, having paid up to 9% Stamp Duty on purchase. If you pass away or hand over the property to the next generation, they have to pay 33% CAT.

Well, looking to the future of the property market in the private rental sector, I see rental property becoming very much the choice of people, many of whom will have been the victims of the banking sector crisis. From 2006, rents and values fell drastically. Rents were down 35% until 2012 (quarters 3 and 4). Demand has now stabilised the rates and we see a much wanted

13 to 14% rental rate increase in city areas, but that is only the starting point in trying to recoup losses for landlords. There is a shortage of accommodation as there has been very little building for 6 years. Many of the planning permissions have expired and anyone with eyes on construction/development in the next five years will do so very cautiously.

We are also seeing the demise of the bedsit, which has resulted in the loss of affordable housing for many people who will now have to seek new accommodation at much greater cost, not alone to the individual, but to the State in the many cases where Rent Supplement is paid. If any politician is reading this, or listening to our message, we say again what we pointed out to Ministers and others: that there is an opportunity to reinstate these essential units of accommodation which would be consistent with good standards. The refurbishment of houses in multiple units should be grant aided, and in the process, upgrade the energy efficiency of property which will give employment (which is so much needed in the construction and related sectors). The State will benefit substantially through not having to exclusively fund the huge capital cost of housing, not to mention the economic stimulus and taxation which would be generated. But to encourage landlords to either stay in the business or to enter it, the rewards must be consistent with good business and all expenses related to that business must be 100% tax deductible from the beginning.

My experience with UIPI, as a member of the Executive Committee and the Public Affairs Committee, served property owners in Ireland well. Over the years, the UIPI President, Secretary and members from the 27 countries have given and taken advice on a variety of issues involving landlords at National and E.U. Level.

As I step down as Chairman, may I sincerely thank all our members for their support over the 21 years, and our various Committees who served the Association so well. Unfortunately, some members have passed away, in most cases before their time. I thank our staff, who have been so loyal over the years, sponsors and the many consultants who have advised us. And of course, I thank my family who have been a huge support in every aspect of my work for the IPOA.

I look forward to watching the IPOA continue developing under its new leadership.

Stephen A. Faughnan
Chairman

CONTENTS

Editorial	1
Debt Meetings	1
Debt Informal Meeting	1
AGM Update	2
Rent Index Launch	2
PRTB Board	2
Cork Meeting	2
Personal Insolvency Act	2
Tax Efficient Transfer of Assets	3/4
Standards	4
Broadcasting Charge	4
Deposit Protection Scheme	4
Legal Challenge Update	5
PRSI on Rental Income	5
Focus Ireland	5
IPOA Digest	6/7
RTA Proposed Amendments	7
UIPI Update	8
BER on Advertisements	8

Debt Meetings

Since the beginning of 2013, there have been three meetings for people who have difficulty with debt. The first was on the 8th January 2013, from which a Banking Committee was formed to deal with the debt difficulties experienced by members. This Committee met on numerous occasions and put together a document to help members who have problems or expect to have financial difficulties in the foreseeable future. This document was presented to members at a meeting on the 27th March, and a number of speakers made presentations designed to help with the management of debt. On the 22nd May, the Committee organised an evening allowing the members access to another range of experts on debt for individual consultations. There was also a comprehensive briefing on how to fill in a SFS. The Banking Committee are to be congratulated for all their hard work and dedication to helping members with financial difficulties.



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



Debt Informal Evening Meeting 11th September 2013

The Banking Committee of the IPOA plan to host an Open Evening on the 11th of September for members currently in financial difficulty or expecting to have trouble meeting mortgages in the future. This is designed for members to network and discuss, e.g. how people are getting on with each of their individual banking institutions. This will help us all in our knowledge about each of the banks and the sharing of information may help improve collective or individual strategies. The informal evening will run from 6.30 to 8.30pm in the Ashtown Business Centre, Navan Road, Dublin 15.

AGM 26th June 2013

The 20th AGM of the IPOA was held in Griffith College on Wednesday the 26th June. The minutes of AGM 2012 and the financial accounts for 2012 were accepted. New members were appointed to the IPOA Committee, Cathal Lawlor and Tom Reilly. Details on the work carried out and the meetings held during the year were given. We had a number of guest speakers:-

David Cantwell FSCSI FRICS, Director of Hooke & MacDonald, gave an overview of the current rental market.

Cathal Lawlor B. Com. A.I.T.I. of Lawlor Private Tax Consultants, gave a comprehensive presentation on succession planning and related matters.

Peter Bastable of Pinergy, gave a presentation on his business and showcased new advertisements for pay as you go electricity meters prior to their debut on TV.

Rent Index Launch

A National Rent Index was launched in May 2013 which outlines the actual rents being paid for houses and apartments across the country. It is an online database accessible on www.prtb.ie. Comprising two separate reports - an Average Rent Report and a Rent Index which captures the trends in rent levels going back to 2007 - it is expected that it will be used for a range of Government policy purposes, including housing policy generally and for informing the Department of Social Protection's Rent Supplement scheme. It will be updated and published every three months.

Appointments to Board of PRTB

The Minister for the Environment, Community and Local Government, Phil Hogan T.D., announced five appointments to the PRTB on the 16th April 2013, including Catriona Walsh, Partner, Ensor O'Connor Solicitors, as Chairperson. Members of the Board are political appointments. The Board of 12 is now top-heavy with 3 members and associates of IPAV, of which the Minister is also an Honorary Member.

Cork Meeting

An Information Meeting took place in Hayfield Manor in Cork on the 15th January 2013, attended by over 60 members from the region. The issues discussed on the evening included Standards in rental accommodation, BER - Requirements January 2013, an update on PRTB, water charges, proposed Deposit Protection Scheme, PRSI on rental income, banking/debt issues, property tax, and an update on the IPOA legal challenge. Various speakers agreed with Chair's views that it is time for owners of residential rental properties to stand up and be counted - through financial support, lobbying and supporting Committees. It is important that Government see strength in numbers and IPOA intentions. The Chairman appealed to the meeting that a Local Committee was needed to support the National Committee in Dublin. Members need to remember that IPOA is a voluntary organisation and anyone interested in joining the Committee should contact the office on 01-8276000.



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Personal Insolvency Act/ Debt Forbearance Measures / Bankruptcy Options**Personal Insolvency Act 2012**

- It was signed into law on 26/12/2012.
- The Act introduces three forms of non-judicial debt settlements, and sets up a new body called the Insolvency Service.
- The Director has been appointed, and he is setting about hiring staff, setting up website, etc.
- It is expected to be operational in second part of 2013.

Settlement Arrangements**Debt Relief Certificate**

- Deals with debts under €20,000

Debt Settlement Arrangement (DSA)

- Deals with unsecured debts
- Must get agreement of 65% of creditors in value
- Agreement is binding on all creditors
- Runs for 5 years
- Administered by a Personal Insolvency Practitioner
- Balance of debt written off at the end of the period

Personal Insolvency Arrangement (PIA)

- Deals with secured debts up to a ceiling of €3m
- Binding on all creditors
- A PIA will normally run for 6 years
- Administered by a Personal Insolvency Practitioner
- Must get agreement of 65% of creditors in value and at least 50% of secured creditors and 50% of unsecured creditors in value.
- Balance of debt is written off at the end of the period

Bankruptcy

- If the debtor fails to keep to the terms of DSA or PIA, the creditor can then apply for Bankruptcy
- Debt must be over €20,000
- Runs for 3 years
- Reasonable living expenses will be allowed
- A bankrupt's unrealised property will remain vested in the Official Signee in Bankruptcy, until disposed of by the Official Assignee

Debt Resolution Options

- Voluntary surrender/forced sale
- Hand the keys over and let the bank take charge
- Bank takes over the property, puts it to auction; you lose total control over the reserve price - and are still liable for the residual. Mortgage holder puts the property to auction, which would give the owner some degree of control over the reserve.

Powers of the bank

- Appointment of Rent Receiver
- Forced Sale
- Judgement Mortgage
- Forced Bankruptcy

Bankruptcy Options

UK process:

- You must establish your "Comi" (Centre of main interest) in the UK before you can apply to a UK court
- You must be resident in the UK and be able to show proof of address, e.g. utility bills
- Once you are judged bankrupt, you will lose all your assets; you are expected to act in good faith and disclose all your assets
- This is not as easy as claimed by many people!
- The legal costs are approximately £6,000 sterling
- The UK courts are now very wary of any Irish applications for bankruptcy, and not well disposed to Irish bankruptcy tourism



TAX EFFICIENT TRANSFER OF ASSETS

Cathal Lawlor (B.Comm)
Chartered Tax Adviser AITI

Introduction

There have been significant changes to the Capital Acquisitions Tax (CAT) code over the last number of years that have resulted in significant tax exposures arising on the gift or inheritance of assets. A child is entitled to receive a certain value in gifts or inheritance from a parent in their lifetime, before becoming subject to CAT. This amount is referred to as the threshold amount. Since 2009, the threshold amount has reduced from just over €540,000 to €225,000. Over a similar period, the rate of tax has increased from 20% to 33%. The effect is stark.

If a parent left a child an asset worth €540,000 on 1 January 2009, no tax liability arose in respect of the inheritance. If that same child received the same value on 1 July 2013, a tax liability of in excess of €103,000 would arise. Therefore, there is a real need to consider the likely tax liabilities that will arise upon the transfer of assets to the next generation and to also consider any reliefs that may be available to reduce those exposures.

Tax efficient Wills

It is good practice to review or re-draft your Will every few years, as your circumstances change. Also, as tax law changes over time and asset values increase or decrease, then your current Will may not be as tax efficient as when initially drafted. You should consider subjecting your Will to a tax test to establish the likely liabilities that will arise on foot of its provisions. This will put you in a position to consider whether there is any scope to reduce those exposures.

You might also find that a beneficiary, to whom you had decided to leave an asset when preparing your Will some years ago, may no longer be the best person to inherit that asset now. If a child has borrowed extensively in the meantime, and is in negative equity, they may not be the best person to inherit the family home, for example, by reason of the fact that the financial institution to whom they owe money may seek to repossess the family home in satisfaction of the debt they now owe.

Lifetime transfers of assets

The fall in asset values generally also provides an opportune time to consider transferring assets to the next generation and there are two reasons for this. The first is a desire by parents to put a child in a position financially to avail of lower asset values generally. The other is to ensure that if there is to be a recovery, that the assets in question are in the children's hands prior to the recovery, to ensure that any future uplift is not taxed at a later stage.

Capital Gains Tax

Where assets are sold for consideration, an exposure to CGT will arise. Where an asset transfers between connected persons, then the proceeds that are deemed to arise on the transfer are equal to market value, even if the proceeds received are less than market value, or nothing at all as in the case of a gift. The tax is charged at a rate of 33% on the difference between the costs of the asset in question and the proceeds, or "deemed" proceeds, received. Tax legislation does provide some level of relief on transfers in certain circumstances.

Principal Private Residence Relief

The disposal of an individual's Principal Private Residence (PPR) is generally exempt from CGT. Where you own a home and move, but retain the first property for investment purposes, then, when sold, a proportion of the gain will be exempt from tax. That proportion is calculated by reference to the period it was occupied as a PPR and the period it was not occupied as a PPR. In certain circumstances, e.g. where someone has to move away for work reasons, or due to illness, a period on non-occupation can be treated as a period of occupation.

Losses Relief – use of losses

Any losses arising on the disposal of assets are generally available for offset against any future profits that may arise to that individual on future asset disposals. Losses cannot be carried back to offset against gains that arose previously. It is therefore important that you prioritise the disposal of loss bearing assets.

Inter Spouse transfer

There is no CGT on the transfer of assets between spouses. The base cost applicable to the transferring asset transfers to the recipient spouse and that is the amount used for calculating their gain on a future disposal. A spouse may be better receiving the asset by gift, than upon death.

Annual exemption

An individual is entitled to gains of €1,270 annually without incurring a CGT charge.

Capital Acquisitions Tax

CAT is a tax on lifetime gifts and inheritances on benefits received under a will or intestacy. You may be liable to Irish CAT on a gift or an inheritance if:

- You (the beneficiary) receive a gift or inheritance and you are Irish tax resident or ordinarily tax resident or
- The person making the gift or inheritance (i.e. disponent) is Irish tax resident or ordinarily tax resident or
- The gift or inheritance comprises Irish property e.g. Irish land

Lifetime Thresholds

The present CAT rate is 33% in respect of gifts or inheritance made after December 2012. There is a lifetime threshold amount that an individual can be gifted, or can inherit tax free. The level of the threshold is determined by the relationship between the person making the gift or inheritance and the person receiving the gift or inheritance. The tax free threshold amounts are presently as follows (1 July 2013):

Group Relationship to Disponent	Group Threshold
A. Son/Daughter	225,000
B. Parent*/Brother/Sister/Niece/Nephew/Grandchild	30,150
C. Relationship other than Group A or B	15,075

**In certain circumstances, a parent taking an inheritance from a child can qualify for Group A threshold.*

Main Exemptions

Various reliefs are available which can potentially reduce or eliminate CAT on gifts or inheritances. These reliefs are important and if they apply, they can result in a significant tax saving. The main reliefs from CAT are:

Agricultural Property Relief

Where agricultural relief is available and can be claimed, the effect is to reduce the value of the taxable benefit transferring by 90%. There are a number of conditions that need to be fulfilled in order to qualify. The main two provisions are that the gift or inheritance must be of agricultural property, which is defined and includes land, and that the recipient must qualify to be treated as a "farmer". Agricultural relief could also apply to a gift or inheritance of cash where the cash is used to purchase agricultural land within two years of the date of the gift or inheritance.

Business Property Relief

There is relief from CAT on the transfer of business assets by way of gift or inheritance provided certain conditions are met. The relief is provided by reducing the taxable value of the gift to 10% of its value. The nature of the asset transferring, the minimum ownership periods of the person transferring the asset, and the type of business involved also need to be considered fully to ensure the conditions are fully met.

Same Event Relief

In circumstances where an asset is transferred without any tax relief being available, a CGT and CAT liability may arise upon the same event. Example: Stephen gifts shares to his son Michael. Stephen is deemed to have received the market value of those shares, which gives rise to a CGT liability of say, €10,000. Michael meanwhile had already absorbed his lifetime threshold and is subject to CAT of €20,000. The CAT due can be reduced by the €10,000 CGT Stephen has paid, as the two tax liabilities arise upon the same event. A clawback may arise if the property is sold by the beneficiary within 2 years.

Dwelling House Exemption

Tax legislation provides relief from CAT for the transfer of a dwelling house, where the recipient has resided in that property for the previous three years, and the recipient did not have a beneficial entitlement to a property prior to the transfer. The value of the property is not taken into account when calculating the tax free threshold for future gifts or inheritances. Therefore, a parent could gift a house to a child, without reducing the tax free amount that the child can be gifted or inherit in the future, provided the conditions are met. Any period where both parent and child occupy the house at the same time as their main residence cannot be taken into account by the child for the purposes of the three year rule outlined above. This provision can be overcome in certain instances.

Small Gifts Exemption

An individual can receive gifts of €3,000 per calendar year free of gift tax from any person, e.g. a child could receive €3,000 from each parent and grandparent, i.e. two parents and four grandparents in a year. This could provide them with €18,000 a year tax free and will not affect their thresholds.

Careful Planning

As indicated, the transfer of assets to the next generation can crystallise large tax liabilities. Careful planning should be undertaken to consider how existing tax reliefs, or other actions can be used to mitigate them. A simple example can be used to illustrate this point: Joe wants to transfer a house, which he acquired for €30,000 in the 1980's and €250,000 cash to his daughter Anne. The house is now valued at €250,000. Anne is engaged and due to marry in 2014. Joe wants to transfer the house now and the cash upon marriage in 2014. The transfer of the property now will crystallize a CGT liability on Joe as he is treated as disposing of the property at market value. His CGT exposure (ignoring incidental costs, indexation etc.) is €250,000 - €30,000 = €220,000 @ 33% = €72,600. Anne's CAT exposure is reduced by the use of her threshold amount. €250,000 - €225,000 = €25,000. Both liabilities arise upon the same event, so credit will be given against the CAT for the CGT paid, reducing the actual liability on both transactions to €72,600. Anne will receive a further gift of €250,000 cash in 2014 upon marriage. Her CAT exposure is on the full amount of the gift - €250,000 @ 33% = €82,500. The transfer of the two assets gives rise to total liabilities of €72,600 + €82,500 = €155,100.

In this scenario, Joe should amend the sequence of the transfers: transfer the cash now, and the house upon marriage. The effect is as follows: Anne has an exposure to CAT on the receipt of the cash. Her exposure is reduced by her threshold amount. The liability is €250,000 - €225,000 = €25,000 @ 33% = €8,250. When the house is transferred upon marriage, assuming values and rates remain the same, Joe will have the same CGT exposure - €72,600. Anne's CAT exposure will be on the full value of the house as she has absorbed her threshold - €250,000 @ 33% = €82,500. The CGT of €72,600 and CAT of €82,500 arise upon the same event, thereby reducing the actual liability to €82,500. When we account for Anne's earlier liability on the receipt of the cash, €8,250, the total tax liabilities on the transfers are €90,750 as against the original position of €155,100.

The simple change in sequence of the transfer results in a reduction in the tax exposures of circa €65,000.

All commercial decisions have a legal and tax consequence, and professional advice should be sought to ensure that you meet your legal obligations while simultaneously minimising your tax exposure. As Solicitors and Tax consultants, Lawlor Private provide specific tailored advice on all aspects of asset transfers to enable an individual structure such transfers in a tax efficient manner.

Disclaimer

The nature of tax advice is such that it will change in accordance with an individual's circumstance. This article is designed to give a broad overview of the main reliefs and exemptions that are available from CGT and CAT. It is not intended, and should not be relied upon for specific tax advice. To that extent, the Partners, Directors and employees of Lawlor Partners will not be held liable for any loss occasioned by action taken, or not taken, on foot of the contents of this article.



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Standards

On the 1st February 2013, Sections 6-8 of the Housing (Standards for Rented Houses) Regulations 2008 came into effect. This effectively outlawed traditional bedsits with shared bathrooms. At a time when money is hard to come by and everyone has less in their pocket, the Government are taking away the most affordable accommodation available. The current standards make it illegal to let bedsits with designated bathrooms, even where bedsits do not share bathroom facilities, if the bathrooms are not within the habitable area of the unit.

Sadly, members have stated that they have difficulties getting funding and planning permission, and some units would be too small as a result of this change. They see no practical option except selling or leaving some units empty. As a result of this, tenants who have been residing in this accommodation for years have to find more expensive accommodation and are being discommoded. These increased standards have resulted in less accommodation being available and will ultimately result in an increase in homelessness. There is no excuse for poor standards, and landlords and tenants should work together to ensure that all properties are maintained in good order.

Broadcasting Charge

The IPOA arranged for a Parliamentary Question to try and ensure that the proposed Broadcasting Household Charge would not be a liability on the owners of rental property, but would instead be levied on the occupiers. The reply is below for your information.

"To ask the Minister for Communications, Energy and Natural Resources the way the proposed public broadcasting household charge will be levied on users in the case of a rental property; if it is expected that the owner or tenant of a rental property will be the liable person; and if he will make a statement on the matter" - Noel Grealish.

* For WRITTEN answer on Tuesday, 30th April, 2013.

Reply

The Programme for Government commits to examining the role and collection of the TV licence fee in light of existing and projected convergence of technologies, and to transforming the TV licence into a household based Public Broadcasting Charge to be applied to all eligible households and applicable businesses, regardless of the device used to access content or services. In line with this commitment, my Department is involved in the on-going analysis and policy development work that is necessary in advance of the implementation of any changes that may be required.

The replacement of the existing funding system, based on the collection of television licence fees, with one based on the imposition of device-independent charge on eligible households and businesses is a complex process and the logistics involved require thorough attention. Issues such as identifying the most appropriate collection method, exemptions and enforcement mechanics require detailed consideration and all have a bearing on the timeframe for implementation.

My Department has been carrying out a Value for Money Policy Review on the proposed policy and this Report has recently been submitted to me. While I understand that there has been a degree of speculation in the press about this matter, decisions in respect of the level of the fee and liability for the proposed charge will only be taken when I have had the opportunity to give due consideration to the Report and its recommendations. That said, the commitment in the Programme for Government refers to a liability on 'households' rather than property owners. I should emphasise here that the proposed charge would replace the existing TV licence system. Furthermore, it is my expectation that the current exemptions in relation to pensioners and those entitled to the Household Benefit Package will continue to apply.

Deposit Protection Scheme

Putting a Deposit Protection Scheme in place is like using a "sledgehammer to crack a nut". An intelligent approach is what is needed to avoid increased cost and bureaucracy. The Indecon report stated: "0.31% of tenancies result in disputes concerning deposit retention coming to the PRTB. An alternative approach to enhance tenant protection would be to provide a fund to ensure tenants are not left at loss if landlords fail to comply." The purpose of having a deposit paid by tenants is to have the facility to compensate landlords for any damage caused to the property, fixtures or fittings during the rental period, or to repay any rent arrears that may have occurred. A viable and simple scheme that could be considered is an increase of just €5 on the current PRTB registration fee, with the proceeds ring fenced and placed in an interest bearing account.

Where a Determination Order is not complied with by a landlord within a month, the tenant should be compensated from this fund, subject to rent being paid up to the date of vacating the property. If rent is paid up to date, and the deposit is not refunded, immediate enforcement action should be taken by the PRTB against the landlord, and at the end of the action, money recouped can be replaced in the compensation fund. Equally, if the amount of deposit paid by the tenant at the start of the tenancy does not fully cover any damage and any rent arrears, the fund should compensate the landlord, and the PRTB should

then initiate immediate legal action against the tenant on the same basis that the PRTB already initiates legal action against landlords on behalf of tenants with legitimate grievances. **This proposal has been put to the Minister for Housing and we await her response.**

Legal Challenge

We have three quarters of the funding for the challenge against the unfair tax treatment of the private rental sector so hopefully, it will commence shortly. If you have not made a contribution to it already or wish to contribute more, please do not hesitate to contact us. We will be able to commence the case as soon as we have the funding. Members involved in the case may need to file a protective claim for 100% relief for mortgage interest for 2009 onwards. Each landlord may have to put in their own claim to their tax district, but this may be done when the case is lodged. We will keep you informed.

Question on PRSI on Gross Rental Income, 12th February 2013

Deputy Eoghan Murphy asked the Minister for Social Protection if she will confirm that gross rents are to be subjected to a 4% PRSI charge, and her reply was: *"In general, unearned income, including rental income, is subject to PRSI along with tax and USC. The rules which apply to the value of rental income for taxation purposes also apply to PRSI, with the exception of "capital allowances" which are not granted."*

Focus Ireland Meeting

On the 14th February 2013, we met with Mike Allen, Director of Advocacy, Focus Ireland. We have a long standing relationship with Focus Ireland, and IPOA members made a donation of €25,000 to them in 2006 to help them with their work. There was discussion on the standards and the difficulties with them, and the outcome or likely outcome of the measures include-

- (A) Possible homelessness
- (B) Increased rents
- (C) Cost to State to supplement increased rents.
- (D) Tenant disruption
- (E) Alternative accommodation suitability
- (F) Reduction of supply of affordable accommodation



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Both parties agreed that the integrated bathroom situation is a step too far at this time and both organisations have received the same result from their lobbying and meetings with officials so far. Focus Ireland need more accommodation for people, and they have a scheme called SLI (Supporting Living Independently) which will support people in danger of homelessness. They ensure that payment is made to the landlord and intervene in any anti-social behaviour situation, but still have to comply with the Residential Tenancies Act 2004.

Focus Ireland have a pilot scheme in Cork where they rent a property from a landlord for a period of years and deal with the day to day management. They have support workers for both the tenants and for any children

Creating Homes Together – Information provided by Focus Ireland

The private rented sector is a key source of housing for many people now, as budget constraints have meant that the supply of traditional social housing options is severely limited. With almost 100,000 households in need of housing, the private rented sector is the main source of accommodation for many. In these uncertain times, renting to tenants with the support of national charity Focus Ireland, can provide landlords with much needed security. Focus Ireland has been proactive in developing tenancy support services that help its clients in maintaining tenancies in private rented accommodation. Property owners unfamiliar with the level of support available may perceive tenants from a charity like Focus Ireland as being 'risky' – a hurdle Faye Murphy, an auctioneer with O'Farrell & Cleere, found she had to overcome: "My experience was that all the tenancies worked out very well. Of the three families that we found properties for, all are still in tenancy and getting on well. I will say that at the start, trying to encourage landlords to take on Focus Ireland customers did require a bit of extra encouragement – for example saying to the landlords that the clients were with a charity and getting help. However, Focus Ireland staff on its the National Family Case Management Service Team were really excellent and provided a very good back up and assurances for landlords."

Having rented to three Focus Ireland families in the past year, Faye's experience is that the charity's involvement can provide landlords with added security. She said: *"Once we had the first family settled and in seeing how smoothly it all went, it was far easier to manage the next few. What I actually found as I went on, was that rather than being something to put prospective landlords off, the fact that Focus Ireland provide such support and assistance to their clients is actually far more helpful. They are not left to their own accord as recipients just receiving Rent Allowance and it's far easier to manage."*

Meanwhile, property agent Pat Garvey found that working with Focus Ireland was a great way to identify good tenants. Focus Ireland has invested time and energy in building and maintaining good working relationships with landlords and Pat's experience is that he can trust tenants from Focus Ireland. Having rented to two families through the charity over the last six months, Pat recommends working with Focus Ireland to identify good tenants, who have the back-up available to make sure the tenancy runs smoothly: *"I'm very happy with Focus Ireland and would recommend working with them. It's worked out very well for me. I fully trust their client recommendations because I know that they would never give me a bad client. For example, if there was, on the off chance, ever an issue with the Rent Allowance, it's followed up with the CWO and solved. I have never had a bad dealing; they're always contactable on the phone and like that we keep in touch. If I think I might have something of interest for Focus Ireland clients, I'll be straight on the phone – it's a two way street and has worked out really great for us both"*.

And T.J. O Sullivan, an auctioneer with O'Farrell & Cleere, who has rented to two Focus Ireland families in the twelve months also said that working with the charity has been a win-win experience: *"Prior to this, I had no experience in working with Focus Ireland at all. We were contacted by the charity on two separate occasions during the past year and during that time, housed two different families. If I were to get a phone call again in the morning, I wouldn't hesitate to work with Focus Ireland and progress with more clients again. I have nothing but positive things to say about the experience; it has worked out very well. The tenants have been very good. I am happy and they are happy."*

If you are a landlord and interested in speaking with Focus Ireland about renting your property, you can contact Liz Carey, one of Focus Ireland's Accommodation Finders at 086 418 1235.

The 42nd International Congress of the UIPI will take place in Lisbon, Portugal, on September 19-22, and will be a celebration of the 125th anniversary of ALP (Portuguese Association of Property Owners) and the 90th anniversary of the UIPI.

IPOA Digest

* As the Minister is well aware, 400,000 tracker mortgages were taken out and are as low as they could possibly be. As the Minister of State is aware also, the European Central Bank rate can only rise and if it goes up by 0.75%, and by another 1.5% over time, people will be shifting more of their income into paying mortgage debt. That is the ticking time bomb Ireland is facing. There is nothing surer than that it will happen – Senator Mark Daly (FF, Kerry South).

* *Some strong characters have been able to secure debt forgiveness: often the more money is owed, the better the chances of cutting a deal, on the basis that the full amount is known to be not recoverable. But for many smaller borrowers, the repayments are as impossible, yet the banks are unforgiving when it comes to cutting deals. The idea that people are let off part of their debts is not popular, but it is going to have to happen on a more reasonable basis during 2013 – Irish Examiner.*

There was no definition for reckless lending during the boom, nor is there one now. It doesn't even get a mention in the personal insolvency legislation – The Irish Times (Letter to the Editor from Patrick Smyth, Terenure).

* *Debt forgiveness is inevitable. It is an unavoidable part of any major debt resolution process. Instead the banks, despite the urgings of the Central Bank, have mainly exercised short-term forbearance, instead of offering long-term debt solutions to distressed borrowers. The patience of borrowers in arrears, who are willing to negotiate debt settlement terms but who find banks unresponsive, is being tested – The Irish Times.*

* Forbearance is a very worthwhile and an appropriate response to most people experiencing mortgage difficulty – Joe Costello TD, Minister of State at the Department of Foreign Affairs & Trade.

* *It is crucial that proper monitoring be put in place to ensure that the banks do not, as they have done in the past, employ sleight-of-hand to sidestep measures designed to force them to engage with householders whose debt is unsustainable – Paul Connaughton TD (FG, Galway East).*

* The buy-to-let sector represents a time-bomb for the economy. Some 17.9% of buy-to-let accounts were in arrears of more than 90 days at the end of September 2012 – Barry Cowen TD (FF, Laois-Offaly).

* *It was wrong to introduce legislation that puts the banks in a veto position. The banks in this country and across the world had all the answers up to five years ago, they had all the experts and knew every kind of statistic available, but it was all based on a heap of sand – Michael Moynihan TD, FF, Cork North-West).*

* The Minister for Finance has spoken at length about second properties and the buy-to-let sector. I do not believe this area should be fair game. Up to 40,000 families invested in buy-to-let for their future because they may not have a pension scheme. They are not necessarily speculators or developers. They also need some protection. Nobody should take the legs from under these people who have put tens of thousands of euro into these properties – Senator Darragh O'Brien (FF, Dublin North).

* *There must be some level of write down, but it is crucial to remove the veto from the banks and enable an independent body to impose fair solutions – Senator David Cullinane (SF, Waterford).*

* An essential component of a split mortgage is that there should be full transparency to borrower and lender of what happens when the non-warehoused part of the loan is repaid. Recourse at term should be limited to collateral value. In other words, the modification agreement should specify that, at the end of the term, any shortfall in the warehouse after sale of the property would be no longer owed – Prof Patrick Honohan, Central Bank Governor.

The Central Bank has simply rolled over for the banks. Within 30 days, the banks can set about repossessing a family home. Some 53,000 people are out of the moratorium period. A further 100,000 people are in mortgage arrears and now the banks are in absolute control. It is time the people got some level of representation and some bone thrown to them by Government and the EU for taking all of the pain in this crisis – Senator Marc MacSharry (FF, Sligo-North Leitrim).

* The new property tax, combined with other Budget changes that mean rental income will be liable for PRSI payments, will cause further chaos in the market. Expect thousands of houses and apartments, bought by "amateur" investors who wanted to provide a retirement nest egg for themselves or for their children to come to the market in the next year. The tax burden is now simply too great for the smaller buy-to let investors. Not only will they have to find €585 a year in property tax on their primary residence if valued at €325,000, but they will also have to pay the property tax on their investment property based on its market value. Now, after the Budget, they have learned that any rental income will be liable for four per cent PRSI – if they have been lucky enough to secure tenants. Will that hike rent prices? Will landlords simply pass on the four per cent PRSI

and the property tax to tenants by way of increased rent? But in another blow to small buy-to-let investors, there could be problems in off-loading houses and apartments that have become a noose around their necks. Buy-to-let investors will be at a competitive disadvantage when trying to sell an older property if there is a new estate in the locality which will be tax free until 2016 – Sunday Independent.

* *Some landlords face significant increases in tax this year, although some may also see the amount of the increase pared back in 2014. The latest increases add to a range of charges which landlords have experienced in the last three years including the NPPR, Household Charge, personal tax, the Private Residential Tenancy Board charges of €90 per registration and BER certification costs. In addition, tax relief on interest was reduced to 75pc of mortgage interest, so now landlords are paying tax on income they have not earned. Landlords of houses that are let in flats have suffered even more because they are charged NPPR tax per flat, meaning that they pay multiple NPPR for one house. In addition, multi-let landlords this year will be obliged to ensure that all the flats in the old houses are upgraded to make them fully self-contained, thus adding further to costs for those landlords who have to upgrade these bedsits to flats. Many landlords will simply not be able to bear this cost, particularly at this time and as a result many tenants could face eviction from their home – Irish Independent.*

* It says something about the Government if it believes it acceptable to tax a debt rather than an asset – Senator Kathryn Reilly (SF, Cavan-Monaghan).

* *I wonder about the decision to charge the tax to owners of rented accommodation. I realise that from an administrative perspective, it is probably cleaner and easier, but there is much to be said for everybody paying something. In many countries, this is dealt with through a habitation tax or a mixture of that and a property tax. It would avoid huge resentment between renters and those who have bought their homes. We will have situations in which one person pays a substantial sum in property tax, while others pay nothing at all. This is not an area that gets much sympathy, but it is another whammy for owners who rent out properties. They may be able to pass on some of the cost, but generally, they are regarded as fair game for any tax. They are not treated for tax purposes in a similar fashion to all other businesses. We must understand that we need a vibrant rental sector, even for economic reasons, because we need to encourage mobility for workers. We will always have people who will not be able to buy and will need to rent, and people whom it suits to rent. If we regarded renting as a similar business rather than something unsavoury and distasteful, we might lose that obsession with owning property and avoid a future property boom – Olivia Mitchell TD (FG, Dublin South).*

It is entirely possible that the only reason the buy-to-let is in financial difficulty is because of changes that came in to the buy-to-let market. Governments took a business and did to it what has not been done to any other business in the country. It provided that when it was taxing profits, these particular businesses were no longer able to net off full costs against revenue. It was an outrageous thing to do. If one did this to any other business, it would collapse. It was a preposterous thing to do but it was exacerbated greatly in the last Budget when the Government decided to charge PRSI on rental income. We have a unique business sector whose rules if they were applied to any other sector would ensure that large swathes of businesses would go out of business in the morning. Landlords, for whatever reason, must deal with this nonsense. We have a bizarre scenario whereby a family could lose the family home by having invested in a buy-to-let and the only reason the buy-to-let is in financial difficulty is because two consecutive Governments simply decided that it was no longer a business, but some other thing – Stephen Donnelly TD (Independent, Wicklow).

Figures from the Department of the Environment show that more than 123,000 people face bills for multiple properties they own. Around 121,000 own two or more properties, with 2,525 owning more than 10. Eight people own more than 200 houses and apartments each, with two owning between 300 and 400, and one landlord owns more than 400 properties, and even if each is worth less than €100,000 – which incurs the lowest €90 per year charge – the annual tax bill will run to €36,000 – Irish Examiner.

A High Court challenge to the LPT has been lodged. Revenue, along with many other State entities, is one of the named defendants. The Chief State Solicitor is the solicitor on record acting for all State defendants. The case is being vigorously defended by the Chief State Solicitor on behalf of the State defendants – Michael Noonan TD, Minister for Finance.

The PRTB has issued more than 30,000 information letters to landlords to date in 2012 regarding their legal obligation under the Act to apply to register tenancies. In addition, the PRTB has issued more than 8,000 formal letters of notice to landlords who did not apply to register, despite these reminders – Jan O'Sullivan TD, Minister for Housing.

* Rents across Ireland are set to rise by between 7% and 10% as families choose to rent instead of stepping onto the property ladder. Since 2008, rents have fallen almost 25% but the market has turned and is set to rise in the next two years. There was still strong demand for properties in south Dublin in prime locations,

with rents rising between 5% and 7% for properties in Dublin 2 and 4 since this time last year. Rents remain solid in Dublin suburbs with demand and rental levels remaining stable over the past 12 months. The typical rents in these locations for a two-bed apartment vary between €1,000 and €1,400 per month, with €1,200 the average. Three-bed homes in suburban Dublin are expected to rise by 10%. An average three-bedroom house in a suburban location in Dublin is currently achieving between €1,500 and €1,700 per month – Irish Examiner.

* *The ban on shared bathrooms and landlord-controlled heating means many properties may not be rented out without significant upgrades, and a number of multi-occupancy properties may hit the market as landlords struggle to meet the cost of compliance. "There are two issues for landlords: planning permission and cost," says Margaret McCormick, Information Officer with the Irish Property Owners' Association. "A number of houses aren't suitable for the integration of bathrooms into the units, and people can't get credit from the banks" - The Irish Times.*

* Landlords are often demonised as ogres, but that is not always the case because they often have to put up with anti-social behaviour. People stop paying rent while the PRTB is dealing with their dispute and seem to get away with that, although it is illegal. The longer the dispute goes on, the better it suits the tenant. Some may bring spurious cases just to stop paying rent for a year. Statistics are vital and computers make it possible to compile them. It is vital to have statistics passing between the PRTB and the local authorities to make the system work better. Landlords do have a case to make. Many of them do not bring complaints because they have an attitude of grin and bear it, get on and do it, and get the property ready and re-let it. Just because they do not bring cases, it should not be assumed that they do not have cases to bring – Senator Cáit Keane (FG, Dublin South-West).

* *The only solution is that Rent Supplement and Housing Assistance Payments be paid directly to the landlord. I understand changes are due to be made to the Rent Supplement scheme and the Housing Assistance Payments, but if the Department has any influence, it should ensure those payments are made directly to landlords – Aengus Ó Snodaigh (SF, Dublin South-Central).*

*If the tenant comes to us and says he or she wants the payment made directly to the landlord, we will facilitate that. Approximately 20% of Rent Supplement payments are paid currently to a person other than the tenant – Helen Faughnan, Assistant Secretary, Dept of Social Protection at the Oireachtas Committee on the Environment.

* *I want to repeat the issue about making the payment directly to landlords. I reiterate that there is a significant benefit in doing that. It means that someone does not fall into significant arrears. I urge the Department to ensure that continues through whatever process is required to be put in place. It needs to happen – Denis Naughten TD (Independent, Roscommon-South Leitrim).*

Residential Tenancies (Amendment)(No. 2) Bill 2012

The Residential Tenancies (Amendment)(No. 2) Bill 2012 was published in July 2012. It will include tenancies in the voluntary and co-operative housing sector that most closely parallel private rented tenancies. The PRTB will be re-named as the Residential Tenancies Board (RTB) and includes the merger of the Rent Tribunal with the Residential Tenancies Board.

The Board will be reduced from 15 to 12 members. The legislation contains measures to increase the take-up of mediation as a key dispute resolution mechanism by charging no fee for the service. There will be changes to the rent arrears procedures which are aimed to reduce the time taken to terminate a tenancy where a tenant is not paying, and the RTB will be able to terminate a tenancy for rent arrears in situations where the procedures under the Act may not have been followed in the correct manner. There is also a change to the penalties structure for late payment - instead of a double fee if the registration is not made within the month, there will be a graduated structure depending on the length of the delay in registration. More information is available on the Oireachtas website, www.oireachtas.ie.

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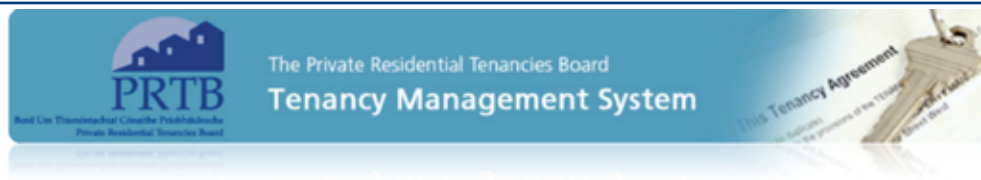
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Want to know more about your rights and obligations as a landlord?

Log on to the new PRTB website - www.prtb.ie to find information on...

- How to register a tenancy.
- Your rights and responsibilities as a landlord.
- Terminating a tenancy for rent arrears including sample notices which must be provided to the tenant.
- The PRTB National Rent Index, which outlines average rent in your area.
- Results of previous PRTB Dispute Cases, which can assist you in reference checking potential new tenants.
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P.O Box No 47, Clonakilty, Co. Cork.

Telephone: 0818 303037

Email: Registrations@prtb.ie, disputes@prtb.ie



UIPI Update

The UIPI have been very busy in the last few months, continually making submissions and lobbying on items which will ultimately affect property owners in all EU countries. The Irish perspective is included in this lobbying and is an integral part of ensuring that your interests are aired. Among the items they have been lobbying about, and updating us with, in recent times are the following:-

- EU Green Paper: A 2030 Framework for Climate and Energy Policies
- EU Consultation on the Insurance of Natural and Man-Made Disasters
- UIPIs fight for a 'split vote' on the EU Parliament Report on Social Housing in Europe
- European Semester: Country Specific Recommendations
- EU Report on Financial Support for Energy Efficiency in Buildings
- European Commission new study on Energy Performance Certificates
- European Court Rules on Unfair Terms in Tenancy Agreements

Members who wish to get more information on the above items are invited to contact the IPOA office.

BER's Required when Advertising



The recast Energy Performance of Buildings Directive (EPBD) was transposed into Irish law by S.I. 243 EPBD Regulations of 2012 and make provision for the mandatory inclusion of Building Energy Rating (BER) information in property sale / rental advertisements, as well as mandating that the Sustainable Energy Authority of Ireland (SEAI) shall publish guidelines as to how the BER should be conveyed in such advertisements.

The cross-Departmental EPBD Implementation Group prepared guidelines, which were amended on the 24th May 2013, for immediate effect and are complementary to the continuing obligation that a BER must be available at the time of offer for sale or rent - regardless of how the property is being marketed. The requirements first came into force on January 9th following an earlier period of public consultation, and apply to newspaper, magazine, brochure, leaflet, advertising notice, vehicle, radio, television, internet / mobile and direct mail.

A summary of the changes are:

- **Text ads:** a small change to prescribed manner of presenting BER data
- **Signage:** requirement to display BER data will only apply to signs customised for the particular property
- **Mobile apps:** BER data may now be presented in graphical OR text format

You can view or download the revised requirements and the relevant digital artwork files www.seai.ie

If you have any queries in respect of this matter, contact the **BER Helpdesk** at **1890 734237** or e-mail info@ber.seai.ie