



## Charges Now Due on Residential Properties

As and from the 30<sup>th</sup> of September, property owners are due to pay a €200 charge to their local authority in respect of any additional properties they own. This annual charge applies only to a non principle private residence (for example: a second “investment” property) and arises out of the Local Government (Charges) Act 2009. This charge is now due since the 30th September in respect of persons who own property on the “liability date”, the 31<sup>st</sup> of July last. However, a one month grace period is being extended to property owners, until the 31<sup>st</sup> of October, with monthly penalties thereafter accruing at a rate of €20 per month. The liability date from 2010 onwards will be the 31<sup>st</sup> March with the charge becoming due on the 31<sup>st</sup> May.

### Who is liable to pay this charge?

The “owner” of the residential property is liable to pay this charge and the Act defines an “owner” as a person who is entitled to receive the rent of the residential property in question, whether or not the property is let (s.1). This entitlement extends to agents or trustees for any other person, perhaps indicating that it could fall to letting agents to discharge this fee where they are putting themselves forward as agents for the landlord, on whose behalf they are collecting rent. S.4 (3) further provides that for the purposes of s.4 (where a person owns two homes as he is in the course of selling one property) that a person becomes an owner of a property when he becomes beneficially entitled to possession of it.

It is also worth noting that s.11 of the Act obliges the Private Residential Tenancies Board, the ESB and the Revenue Commissioners to supply information to the local authority for the purposes of enabling the local authority to perform its functions under the Act.

Accordingly, a landlord who has PRTB registered a property he is letting but is now hoping to avoid the local authority charge by ‘keeping schtum’, would be advised to note that information sharing is obligatory under the Act between these bodies.

### Payment Methods:

Payment can be made either via post, by attending on the local authority offices or online at [www.nppr.ie](http://www.nppr.ie). Payment must be accompanied by a declaration of liability signed by the property owner or his agent (s.5). This declaration is contained within the PPR1 Registration Form and can be made therein by persons paying by post or in person, or it can be made online whilst making the payment. The PPR1 Form is available online and from the local authority. The form provides separate sections for corporate owners, private owners or joint owners. PPS numbers or tax reference numbers are essential except when the owner’s country of residence is outside the state and they do not have a PPS number.

On payment of the charge, the local authority issues a receipt. Further, a certificate charting the history of payments on the property is available on writing to the local authority (s8(2)). It is foreseen that such documentation will become a routine addition to essential closing documents.

### What happens if I do not pay this charge?

Crucially, s.7 (1) of the 2009 Act provides that any charge or late payment fee, which remains unpaid by the owner of a residential property, will remain a charge on that property. The impact of such a charge would be keenly felt

where a person is attempting to sell or mortgage a property, or where the owner had died and relatives are attempting to administer his estate.

Section 6(1) of the Act provides for a “late payment fee” of €20 per month after the expiration of the first month. The NPPR1 Registration Form warns that “the late payment fee will continue to roll up as long as the charge remains unpaid and the amount involved can be substantial.” It must also be noted here that this charge is self assessed and the fact that a charge is due may only become apparent on attempting to sell the property at a later date, with late payment fees accruing during this time unbeknownst to the owner of the property. Local authorities provide the following example:

“if no payment is made by a person liable for the charge over a period incorporating 5 successive liability dates, 5 separate €200 charges will be extant and each will attract a late payment fee of €20 per month. The amount due after 5 years will be about €4,500, of which amount €3,500 will be late payment fees.”

The local authority has authority under the Act to recover any amount due as a simple contract debt (s.9 (3)) and s.5 provides that a person who fails to pay the charge is guilty of an offence with minimum penalties of up to €2,000 and additional penalties of €100 per day accruing for each day that the offence is continued by the person after having been convicted (s.12 (2)).

## **Exemptions**

There are numerous exemptions to this charge, mainly of a practical nature. The charge does not apply to the temporary owner of two houses where he is in the course of selling one home for the purposes of making the second home his principal private residence. This is provided that he only became the owner of the second property within a year of the liability date, and that the first house is sold within 6 months after the liability date. “Granny flats” are also exempt

from this charge where the second property is located within a 2km radius of the owner’s home and where it is occupied by a relative. Further exemptions include where a person retains an interests in a family home pursuant to a decree of judicial separation or a divorce, where the owner of a property is taken into care due to illness and now resides in a house which the do not own, where the property is owned by a charity or where it being held under the terms of a discretionary trust. The ‘rent-a-room’ scheme is exempt where the person beneficially entitled in possession to the house continues to reside therein with the tenant. Local Authority housing and shared ownership housing (with a Local Authority) are also exempt.

**For advice on any matter relating to private client issues contact the RDJ Private Client Department.**

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