

Property

Household Charges: Obligation to discharge before sale

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A. General

The Local Government (Household Charge) Act 2011 has introduced an annual charge which is payable by owners of residential property. Residential property owners are obligated to register and pay the €100.00 Household Charge by 31 March, 2012 (the "2012 Act") or can opt to pay in four instalments by registering their direct debit payment details by 1st March 2012.

The purpose for the charge is part of Government's commitments with regard The EU/IMF Programme of Financial Support for Ireland to fund local services through local property-based charges. These services include fire and emergency services; maintenance and cleaning of streets; planning and development; public parks; street lighting; libraries; open spaces and leisure amenities. The household charge is intended as an interim measure before comprehensive property valuation system is introduced.

The household charge applies to residential property generally which can include those properties that are liable to the €200 charge on Non-Principal Private Residences.

B. Obligation to Pay

Where an owner of residential property fails to pay a household charge or an instalment of a household charge in accordance with this Act shall be liable to a late payment fee and a late payment interest under Section 7 of the 2012 Act. Additionally under Section 8 of the 2012 Act where the owner of a residential property fails to pay a household charge, late payment fee or late payment interest it shall operate as a charge on the property.

In addition to the owner of residential property the 2012 Act imposes a strong obligation on "vendors" of residential property to discharge the household charge before the completion of a sale where failure to do so can result in criminal liability.

Under section 10 of the 2012 Act it is an offence for the Vendor of a residential property not pay to the relevant local authority all household charges, late payment fees and late payment interest due and owing to the relevant local authority in respect of that residential property before the completion of the sale of the property. A person who contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a class C fine.

Under this section Vendor is defined as a person who transfers the property to another person in consequence of the exercise of a power under any enactment to compulsorily acquire land, or the giving of notice of intention to exercise such power, or for no consideration or consideration that is significantly less than the estimated market value of the residential property concerned at the time of its transfer, *and* an agent of the owner of the residential property who receives the proceeds of the sale of the property or part thereof on behalf of the owner, or provides legal advice to the owner in connection with a transfer". This definition can be seen to include Solicitors doing a sale or voluntary transfer of a private residence without having certificates of discharge or selling property without furnishing evidence of clearance. It

would also apply to Banks and Receivers under any enactment exercise the power to compulsory acquire land.

The requirement that a Vendor pay the charge or furnish certificates of exemption to a Purchaser is extended to the NPPR by Section 19 of the Local Government (Household Charge) Act 2011 which inserts a new section, Section 8A in the NPPR legislation (Local Government (Charges) Act 2009).

This note is intended to provide a general overview. It is given wholly without any liability or responsibility on the part of Eugene F. Collins, Solicitors, and does not replace the necessity to obtain legal advice.

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