

Relate

Contents

The journal of developments in social services, policy and legislation in Ireland

Page No.

- 1 Household charge**
A new household charge is payable this year.
- 3 Non-Principal Private Residence (NPPR) Charge**
There are changes to the legislation governing the Non-Principal Private Residence (NPPR) or second home charge.
- 3 Septic tanks**
Owners of septic tanks and similar systems will be obliged to register and the systems may be inspected.
- 5 Regulation of the legal professions**
There are proposed new arrangements for the regulation of solicitors and barristers.
- 6 Health-related legislation**
There are new rules on nursing home support, the appointment of GPs and health insurance.
- 7 Other legislation**
This includes legislation on the insurance levy, public service pensions and financial regulation.

Household Charge

The Local Government (Household Charge) Act 2011 provides for the new household charge. The flat-rate charge of €100 a year was introduced in January 2012. It may be paid in a single payment or four instalments. This new charge is separate from, and is in addition to, the Non-Principal Private Residence (NPPR) or second home charge of €200 a year (see *Relate*, September 2009). The method of collection and some of the rules attached to the new household charge are quite similar to the ones for the NPPR.

It is expected that the flat-rate household charge will be replaced by a property tax related to the value of the site when all the necessary arrangements have been made. An expert inter-departmental group is being established to make recommendations on the design of a new property tax. The group is expected to report by mid-2012.

The new household charge is payable by owners of private residential property. It is estimated that it will apply to 1.6 million properties. You are obliged to declare your liability for the charge. The charge is being collected centrally. The proceeds will go into the Local Government Fund and will be allocated to local authorities. This means that each local authority will not necessarily get the proceeds of all the charges from its area.

Who is liable to pay

In general, if you are the owner of a private residential property on the liability date, that is, 1 January of each year, you must pay the charge before the end of March of that year. The first payment is due on 31 March 2012. You may pay by four instalments throughout the year. There are penalties for late payments and it is an offence not to pay.

Virtually all private residential properties, including apartments and bedsits, are liable for the tax.

INSIDE: Exemptions p2, Septic tanks p3, Inspections p4, Regulation of the legal professions p 5, Nursing Homes Support Scheme p6, Public service pensions, p7, Recognition of foreign civil partnerships p8

A residential property which is let to a number of people on the basis of a letting agreement involving the exclusive use of a bedroom for each person and joint use of the common areas is liable for only one charge.

You are liable for this new charge if you are the owner of rented property and are receiving rent (or would be if it was rented) under a lease of not more than 20 years. If the property is let on a lease of more than 20 years, the person to whom it is leased is the owner for the purposes of this charge.

If the owner of a residential property dies, the personal representative of the deceased is liable for the charge if a grant of representation has been taken out. If no grant has been taken out, no charge is payable.

Exemptions

You are exempt from the charge if you had to vacate the property for over a year before the liability date due to a long-term mental or physical infirmity – this is largely to cover situations where people are in nursing homes or have moved in with relatives because of their need for care. To be exempt from the charge in 2012, you must have vacated the property on 31 December 2010 or earlier.

You do not have to register the property in order to claim this exemption. However, at some stage you may be asked for proof that you qualified for it, such as a doctor's letter.

Mobile homes are exempt from the Household Charge. So are dwellings which are:

- Newly built, have not been sold and are not used as dwellings or
- Owned by government departments or the Health Service Executive or
- Owned by local authorities or voluntary housing bodies (this includes dwellings in the shared ownership scheme which are not yet fully bought from the local authority) or
- Liable for commercial rates or
- In a discretionary trust or owned by an approved charity

There is no need to register these exempt dwellings or to make a formal claim for exemption.

Waivers

You are entitled to a waiver of the charge if you are entitled to receive Mortgage Interest Supplement on 1 January (the liability date) or, for the years 2012 and 2013, if the property is in a designated "unfinished housing estate". Details of these estates can be found on householdcharge.ie.

Even if you qualify for a waiver, you must still register the property and declare which waiver you are claiming.

Late payments

If you fail to pay the charge on time, that is, before the end of March of the year in question, you will be liable for interest and late payment fees. The level of late payment fees is related to the delay in paying:

- If you pay late but within six months of the due date, the late payment fee is 10% of the outstanding amount
- If you pay between 6 and 12 months late, the fee is 20% of the outstanding amount
- If you are more than 12 months late, the fee is 30% of the outstanding amount

The interest charge is calculated at the rate of 1% a month or part of a month from the due date until the charge is paid. Any unpaid charges, late payment interest or fees remain a charge on the property for 12 years.

Deceased owners

Personal representatives of deceased home owners will be liable to pay any outstanding charges within three months of taking out a grant of representation – these charges are all those which were outstanding at the time of the owner's death. If the personal representative does not pay any outstanding charges within this three-month period, the charges and interest start to accumulate again from the date of the grant of representation.

Collection of the charge

As already stated, you are obliged to declare your liability for this charge – or to claim a waiver, if you are entitled to one. You must provide your name, Personal Public Service Number (PPSN) – or Tax Reference number (TRN) where the owner is a company – your correspondence address and the address details of any property(ies) you are registering.

You will also be asked to state the property type (house, apartment etc.) and what type of water supply is connected to each property.

There is an on-line payment facility at householdcharge.ie. Alternatively, you can register and pay by post, using Form HC12N, available from householdcharge.ie and local authorities. You can also use the form to register and pay at the office of your City or County Council.

As already stated, the payment must be made by 31 March 2012. If you wish to pay by instalments, you must set up a direct debit by 29 February 2012, either through the website or using the form. The payments will then be made on the following dates:

- 13 March 2012
- 14 May 2012
- 13 July 2012
- 10 September 2012

Proof of payment, waiver or exempt status

You get a receipt when you have paid the Household Charge. If you wish, you can also ask for a certificate of discharge, confirming that the charge has been paid for the year concerned.

If you have not paid due to a waiver or exemption, you can ask for a certificate confirming this. A certificate of discharge, waiver or exemption will be needed if you wish to sell or transfer the property.

If you are refused a certificate, you may appeal to the District Court.

If the question of prosecution for non-payment arises, that prosecution must be taken by your local authority.

The Act provides for data sharing among relevant agencies such as local authorities, the Department of Social Protection, the Revenue Commissioners, the Private Residential Tenancies Board and the ESB so that liable residential properties can be identified.

NPPR (second home) charge

The Act also makes some changes to the legislation governing the Non-Principal Private Residence (NPPR) or second home charge. This €200 charge is payable on residential property which you own but which is not your principal private residence. It is payable by 31 May each year in respect of property which was liable on 31 March of that year.

The main changes are:

- Properties that are in the Rental Accommodation Scheme are no longer exempt from the charge.
- The rules in relation to the death of a property owner will be the same as for the household charge.
- There will be a handling fee of €10 if you decide to pay the charge over the counter in a local authority office. When the charge was first introduced in 2009, 85% of owners paid online. This fell to 59% in 2010 and the new handling fee is designed to encourage people to use the online facility: nppr.ie

Septic tanks

The Water Services (Amendment) Bill 2011 provides for the establishment of a system for the registration and inspection of septic tanks and other on-site waste water treatment systems. Householders who have such systems will be obliged to register them and pay a registration fee of €50. In 2006, over 450,000 households were served by septic tanks and other forms of on-site waste water treatment systems. The Bill has been passed by the Seanad and is at Committee Stage in the Dáil. It is expected to be passed by 3 February 2012.

The main legislation governing water services is the Water Services Act 2007. There are also detailed regulations dealing with water quality and standards – see environ.ie. The 2007 Act already places obligations on owners of septic tanks and other on-site waste water treatment systems. This Bill proposes to amend that Act to bring it into line with the requirements of EU law.

In 2009, the European Court of Justice (ECJ) held that Ireland was in breach of the EU Directive on waste water (Directive 75/442/EEC revised by Directive 2008/98/EC) for a number of reasons (Case C188-08). The main reasons were:

- Irish legislation does not adequately provide for the disposal of domestic waste water in the countryside through septic tanks and other individual waste water treatment systems without endangering human health and without using processes which could harm the environment.
- The legislation fails to provide for the prohibition of the uncontrolled disposal of such waste water.

The ECJ ruling also held that County Cavan did have by-laws (2004) which constituted legislation for the purposes of the Directive. The Cavan by-laws do not require that owners

register such systems but they do require that all owners of septic tanks and similar on-site treatment systems have their systems assessed by a competent person with re-inspections being necessary every seven years. Householders in County Cavan must pay for these assessments.

In July 2011, the European Commission applied to the European Court of Justice to have fines imposed on Ireland for failing to comply with the 2009 court ruling.

A report on water quality published by the Environmental Protection Agency in 2009 shows, among other things, that groundwater is being polluted by on-site waste water treatment systems. Approximately 26% of the public and private drinking water supply in the State is provided from groundwater sources.

Registration

Under this Bill, householders who have septic tanks and similar systems will be obliged to register with the relevant water services authority. At present, the water services authorities are local authorities. It is intended to establish a national water service agency, which will be responsible for all aspects of water services.

The Bill provides that the maximum registration fee will be €50; the precise figure will be set in regulations. Registration will be required every five years but no fee is required after the first registration. The fee is expected to cover the cost of inspections and the administration of the scheme. The register will be publicly available. It will be an offence not to be registered.

The water services authorities will be responsible for maintaining the register. The date by which registration must take place has not yet been decided but it is expected to be within a year of the enactment of the legislation – by early 2013. It will be possible to register online as well as in writing.

When the registration system is in place and a house which is served by a domestic waste water treatment system is sold, the seller must provide evidence to the buyer that the system is registered. The buyer will then be required to notify the relevant water services authority of the change of ownership.

Inspections

Inspections of domestic waste water treatment systems will be carried out by inspectors appointed and approved by the Environmental Protection Agency (EPA). The inspection may be instigated by either the EPA or the water authority. It is not expected that all systems will be inspected but that inspections will be carried out on a risk basis and in accordance with the national plan to be drawn up by the EPA.

The EPA will draw up a national inspection plan for the inspection and monitoring of such systems. The inspection plan must take account of relevant available information in relation to specific types and locations of domestic waste water treatment systems. The inspections will assess if the systems endanger human health or the environment including water, air and soil, the countryside and places of special interest.

The plan will include targets for numbers of inspections. The plan must be reviewed at least once every five years. Water services authorities will be obliged to implement the plan.

The inspectors will have power to inspect all aspects of a domestic waste water treatment system, monitor domestic waste water, take photographs and obtain information regarding the maintenance, servicing or operation of a domestic waste water treatment system. The inspector will not have the power to enter a private dwelling without the permission of the occupier.

If the inspector considers that the system is not operating in accordance with the regulations, the water services authority will issue an advisory notice to the owner. This notice will order the owner to rectify the problem within a specified time. The owner may appeal against this notice within 21 days. There will be a fee of up to €20 for such an appeal. The water authority must then arrange for a re-inspection of the system. The fee is refundable if the appeal is successful. If the appeal is not successful, the owner may make a further appeal to the District Court. The grounds of appeal to the District Court are limited to procedural issues.

The Bill gives the EPA power to issue directions to the water services authorities to ensure that they are carrying out their functions under the Bill in an effective manner. It will be an offence for water services authorities not to comply with EPA directions.

The Bill provides that the Minister may make regulations on domestic waste water treatment systems on matters such as maintenance plans, performance standards and standards in relation to disposal of waste water and sludge. The Minister has said that performance standards will vary according to the age and type of on-site systems in place. The EPA issued a code of practice for new systems in 2009: epa.ie.

Costs

There will be no specific charge for inspections. If the inspections show that remedial works are required, the costs of such work will have to be met by the owners.

Obligations on owners

The Water Services Act 2007 already requires owners to ensure that their treatment systems do not cause a risk to human health or the environment or a nuisance through odours. This obligation is made more specific in the Bill. Owners will be obliged to ensure that the system does not constitute, and is

not likely to constitute, a risk to human health or the environment, and does not

- Create a risk to water, air or soil, or to plants and animals
- Create a nuisance through noise or odours
- Adversely affect the countryside or places of special interest. These include Special Areas of Conservation, Special Protection Areas and Natural Heritage Areas.

Regulation of the legal professions

The Legal Services Regulation Bill 2011 provides for a new system of regulation of the legal professions. It is currently being discussed in the Oireachtas.

Present regulatory system

At present, the legal professions are self-regulating. The Solicitors Acts 1954 – 2008 deal with the regulation of solicitors but there is no legislation dealing with the regulation of barristers.

The Law Society is both the representative body for solicitors and the regulatory body. The Law Society also deals with training standards for solicitors and provides the training itself. Some of the Society's functions are subject to the approval of the Minister for Justice and Equality while some others require the consent of the President of the High Court.

The Law Society is governed by a Council, which is composed of solicitors. The Society is obliged to maintain a Compensation Fund. You may claim from it if you suffer loss because of the dishonesty of a solicitor or the solicitor's staff.

You may complain to the Law Society about a solicitor on the grounds of inadequate service, excessive fees or misconduct. You may complain directly to the Law Society or to the Solicitors' Disciplinary Tribunal. If you are not happy with the way your complaint is dealt with, you may then complain to the Independent Adjudicator, who is not connected to the legal profession but is appointed by the Law Society.

In the past three years there have been about 6,500 admissible complaints to the Law Society. Decisions on the striking off of solicitors must be made by the High Court. A total of 253 High Court orders were issued under the Solicitors Acts in 2010.

The situation with barristers is similar in some respects to that with solicitors – the General Council of the Bar of Ireland (usually known as the Bar Council) is both their representative body and their regulatory body. The Honorable Society of King's Inns decides on training standards for barristers and itself provides that training; it is composed of barristers and judges.

The Bar Council is composed of barristers. It operates the Code of Conduct of the Bar to which all barristers are expected to adhere and has a Disciplinary Code. You may complain to the Barristers' Professional Conduct Tribunal about the misconduct of a barrister. This tribunal is set up under the Disciplinary Code. The Tribunal can impose penalties on a barrister but does not have the power to order that compensation be paid to a client.

The Barristers' Professional Conduct Tribunal considered 43 complaints during 2009–10. The tribunal has power to recommend that a barrister be disbarred. Only one such recommendation has been made but it is not clear that it has any legal effect as the matter is not governed by legislation.

The Legal Services Ombudsman Act 2009 (see *Relate*, May 2008) provided for the appointment of an Ombudsman who would oversee the complaints systems operated by the Law Society and the Bar Council and assess the adequacy of their admissions policies. It has now been decided not to appoint an Ombudsman under this Act but to introduce a different system of regulation.

Proposed new system

The following is a summary of the main provisions of the Bill.

Legal services regulatory authority

It is proposed to establish a legal services regulatory authority which will oversee both solicitors and barristers.

The objectives of the authority will include:

- Protecting and promoting the public interest
- Protecting and promoting the interests of consumers relating to the provision of legal services
- Promoting competition in the provision of legal services
- Supporting the proper and effective administration of justice

The authority will have 11 members with a lay majority and a lay chair. The professional bodies will each have two members. The authority will be accountable to the Dáil.

The authority will have a range of powers and functions. These include, among other things, the setting of professional standards, the management and supervision of clients' money, admission to the professions and education and training.

Independent complaints system

The Bill provides for an independent complaints system to deal with complaints about professional misconduct.

There will be an independent legal practitioners' disciplinary tribunal to deal with both professions, which will be independent of both the new regulatory authority and the professional bodies.

The tribunal will have a range of powers to discipline lawyers found guilty of professional misconduct. The power to strike off a lawyer will remain with the High Court.

Legal costs adjudicator

There will be an Office of the Legal Costs Adjudicator that will replace the current Office of the Taxing Master. As well as adjudicating on disputed legal costs, this office may prepare and

publish legal costs guidelines for legal costs adjudicators, legal practitioners and the public. It will establish and maintain a register of decisions about disputed legal costs.

The Bill sets out a number of legal costs principles. Among other things, the following rules will apply:

- It will not be possible to set fees as a specified percentage or proportion of damages payable to a client.
- Fees for junior counsel may not be a specified percentage or proportion of senior counsel fees.
- Lawyers will be obliged to provide more detailed information about legal costs from the start of their dealings with clients. When a lawyer takes instructions from a client, a notice must be provided disclosing the costs involved or, where this is not practicable, the basis upon which costs are to be calculated. If it becomes clear that there will be a significant increase in costs as the matters are progressed, the lawyer must issue another notice to the client.

Other changes

The Bill also provides for a range of changes including: the establishment of partnerships between barristers, between barristers and solicitors and between lawyers and non-lawyers; direct public access to barristers; and the possible unification of the two professions.

Health-related legislation

Nursing Homes Support Scheme

The rules governing the Nursing Homes Support Scheme (generally known as the *Fair Deal*) were changed in October 2011 to provide that payments under the scheme may generally be made only when approval has been granted by the Health Service Executive (HSE).

The HSE's *National Guidelines for the Standardised Implementation of the Nursing Homes Support Scheme* now provide that, from 1 October 2011, a person going into a nursing home will have financial support paid from the date that the application is approved, or date of admission to the nursing home, whichever is the later. It is intended to review this change after a year.

There were 21,474 people receiving financial support for nursing home costs at the end of October 2011. This includes people using the Nursing Homes Support Scheme as well as those receiving support under the old arrangements – those receiving nursing home subventions, people in contract beds and people paying in-patient charges in public nursing homes.

At present, the weighted average cost of care is approximately €1,275 in a public nursing home and €900 in a private nursing home. The cost of care for each nursing home that is participating in the Nursing Homes Support Scheme is published on the HSE's website at: [hse.ie/eng/services/Find a Service/Older People Services/nhs](http://hse.ie/eng/services/Find_a_Service/Older_People_Services/nhs).

Health (Provision of General Practitioner Services) Bill 2011

The Health (Provision of General Practitioner Services) Bill 2011 is currently before the Oireachtas. It provides that qualified GPs will be immediately able to enter into a Primary Care Re-imbursment Service (PCRS) contract with the HSE to provide services to medical card and GP visit card holders. (This scheme was previously called the General Medical Services Payments Board, usually referred to as the GMS.) In general, GPs who have a PCRS contract may take any patient onto their list, up to a maximum of 2,000.

At present, GPs can only get PCRS contracts to provide services to medical card and GP Visit Card holders where:

- A vacancy arises due to the retirement, resignation or death of an existing PCRS doctor
- A new PCRS panel is created in response to an identified need for an additional doctor in an area
- A PCRS doctor gets approval from the HSE for the creation of an assistant with a view to partnership within his or her practice

This effectively has meant that newly qualified GPs, even though they were entitled to treat private patients, found it difficult to get PCRS contracts. The Bill provides for the removal of these conditions. There are also some other GPs who have restricted access to PCRS contracts – these restrictions are being abolished under this Bill. The Bill also provides for some other changes to the PCRS contracts.

Health insurance

The Health Insurance (Miscellaneous Provisions) Act 2011 provides for the continuation of the temporary risk equalisation scheme for the year 2012. This concerns age-related tax credits which are paid for by the community rating levy. The temporary scheme was introduced in 2009 (see *Relate*, January 2009 and April 2009) for the years 2009–2011. It is planned to have a permanent scheme by January 2013.

At present, about 47.5% of the population have private health insurance. Most health insurance is provided by three main companies, one of which has the majority of older people.

Other legislation

Insurance (Amendment) Act 2011

The Insurance (Amendment) Act 2011 provides for the application of a 2% levy to insurance policies. The levy is applicable from 1 January 2012. The levy applies to non-life insurance policies with the exception of health insurance policies. The levy is charged to the insurance companies but they normally pass it on to customers. This means that you will have to pay the levy when, for example, your motor insurance policy is due for renewal.

The levy is paid into the Insurance Compensation Fund. This fund makes payments to policy holders if a provider of non-life insurance goes into liquidation or is in administration. Further information is available at centralbank.ie.

Public service pensions

The Public Service Pensions (Single Scheme) and Remuneration Bill 2011 is currently being discussed by the Oireachtas.

Tax credits

Tax credit amounts have changed between 2009 and 2011. The amounts are calculated based on an actuarial assessment of the costs in respect of the different age groups. The following are the tax credits for 2011 and 2012:

	Tax credits 2011	Tax credits 2012
Under 59:	No tax credit	No tax credit
60–64:	€625	€600
65–69	€625	€975
70–74:	€1,275	€1,400
75–79:	€1,275	€2,025
80–84:	€1,725	€2,400
85 and over:	€1,725	€2,700

The tax relief is applied at source by the insurance company.

Community rating levy

The main health insurance companies must pay a levy which was set at €205 for each adult and €66 for each child in 2011 (the small employment-related insurance companies known as restricted membership schemes are not affected). The levy for 2012 is €285 for each adult and €95 for each child.

The levy is applied to the insurance companies who may then decide whether or not to pass it on to their customers.

It provides for a single pension scheme for all new entrants to the public service. The National Pensions Framework included proposals to introduce such a scheme – see *Relate*, May 2010.

The Bill provides for the following main changes:

- Pensions will be based on career average pay and not on final salary, as is the case at present
- Pension age is being increased to 66 and will further increase to 67 in 2021 and to 68 in 2028 in line with the changes in State Pension age
- Post-retirement increases in pension will be linked to the Consumer Price Index and not to increases in pay in the person's former job

The new scheme will apply to new entrants in all areas of the public service. This includes the Civil Service, the education sector, the health sector, local authorities, the Garda Síochána, the Defence Forces, non-commercial State bodies and other regulatory or similar bodies.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

Head Office

Ground Floor t + 353 761 07 9000
George's Quay House f + 353 1 605 9099
43 Townsend Street e info@ciboard.ie
Dublin 2 w www.citizensinformationboard.ie

Financial Emergency Measures in the Public Interest (Amendment) Act 2011

This Act applies the provisions of the previous similarly named Acts to judges. This means that, from 1 January 2012, the pay cuts that were applied to public servants in 2010 are now applied to judges on the same income-related basis (see *Relate*, January 2010). Judges are now subject to the deduction from pay, commonly called the *public service pension levy*, which was introduced in 2009 (see *Relate*, April 2009). Retired judges were already subject to the reductions in public sector pensions which were introduced in 2010.

The Act also provides for a further reduction in public service pensions that are over €100,000 a year. The amount over €100,000 is reduced by 20% instead of the 12% that previously applied.

A general pay reduction of 10% was applied to all new entrants to the public service from 1 January 2011. This Act provides for a similar reduction in the pay of new judges from 1 January 2012.

Central Bank (Supervision and Enforcement) Bill 2011

The Central Bank (Supervision and Enforcement) Bill 2011 deals with a number of aspects of financial sector regulation. It covers more than 14,000 regulated financial service providers in Ireland including insurance companies, investment intermediaries, bureaux de change, securities and investment firms and banks.

It starts the process of consolidating and simplifying the many different pieces of legislation dealing with financial regulation – there are about 250 Acts, Statutory Instruments and Directives. Much of the Bill, which is currently before the Oireachtas, concerns detailed technical aspects of regulation and supervision. The Bill includes provisions on the protection of whistleblowers.

Property Services (Regulation) Act 2011

The Property Services (Regulation) Act 2011 has been passed. The Bill dates from 2009 and was described in *Relate*, July 2009. The Act provides for the establishment of the Property Services Regulatory Authority. The original Bill was amended to provide that the Authority will have a statutory responsibility for the publication of residential property sales prices. This information will be supplied to the Authority by the Revenue Commissioners, who are aware of it for stamp duty purposes. It is not yet known when this part of the Act will come into effect.

Recognition of foreign civil partnerships

A number of foreign same-sex marriages and civil partnerships are recognised as the equivalent of civil partnerships in Ireland and the couples concerned have the same rights as those couples entering civil partnerships in Ireland. The initial list of recognised partnerships – see *Relate*, February 2011 – has now been extended. Registered relationships from the following jurisdictions are, from 25 December 2011, now also recognised under Irish law – the Isle of Man, South Africa, and the USA states of New York, Oregon and Rhode Island.

Relate email subscription

If you would like to receive *Relate* by email you can subscribe by sending an email with the subject line SUBSCRIBE to relate@ciboard.ie and including your name and your organisation if applicable.



Citizens Information

LOG ON
www.citizensinformation.ie

LO-CALL
1890 777 121 Open Mon to Fri, 9am to 9pm

DROP IN
For your local centre see [Golden Pages listing](#)