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*Number 30 of 2009*

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**LOCAL GOVERNMENT (CHARGES) ACT 2009**

**REVISED**

**Updated to 7 April 2017**

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This revised Act is an administrative consolidation of the *Local Government (Charges) Act 2009*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Knowledge Development Box (Certification of Inventions) Act 2017 (6/2017)*, enacted 12 April 2017, and all statutory instruments up to and including *European Union Habitats (Blackwater Bank Special Area of Conservation 002953) Regulations 2017 (S.I. No. 149 of 2014)*, made 7 April 2017, were considered in the preparation of this Revised Act.

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**Introduction**

This revision presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

**Related legislation**

This Act is not collectively cited with any other Act.

**Annotations**

This revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1996, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).





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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
  2. Meaning of residential property.
  3. Charge on certain residential property.
  4. Exemptions from charge.
  5. Declaration of liability and payment of charge.
  6. Late payment fee.
  7. Unpaid amount to be a charge on property.
  8. Receipts and certificates.
  - 8A. Receipts, certificates and requirements on sale of residential property.
  - 8B. Forged and altered documents.
  9. Collection, care and management of charge.
  10. Delegation of functions of local authority relating to collection of charges, etc.
  11. Data sharing and exchange.
  12. Offences and penalties.
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Number 30 of 2009

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**LOCAL GOVERNMENT (CHARGES) ACT 2009**

**REVISED**

**Updated to 7 April 2017**

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AN ACT TO IMPOSE ON THE OWNERS OF CERTAIN RESIDENTIAL PROPERTIES LIABILITY FOR THE PAYMENT OF AN ANNUAL CHARGE IN RESPECT OF EACH SUCH PROPERTY CONCERNED TO THE LOCAL AUTHORITY IN WHOSE AREA THE RESIDENTIAL PROPERTY IS SITUATED, AND TO PROVIDE FOR RELATED MATTERS.

[21st July, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— In this Act—

“Act of 1992” means the Housing (Miscellaneous Provisions) Act 1992;

“Act of 1997” means the Taxes Consolidation Act 1997;

“Act of 2001” means the Local Government Act 2001;

[“Act of 2003” means the Capital Acquisitions Tax Consolidation Act 2003;]

[“administrative area” has the meaning assigned to it by the Act of 2001;]

[“building” includes—

(a) part of a building, and

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

[“certificate of exemption” has the meaning assigned to it by section 8(1);]

“charge” has the meaning assigned to it by *section 3 (1) and (2)*;

“city council” has the meaning assigned to it by the Act of 2001;

“county council” has the meaning assigned to it by the Act of 2001;

[...]

[“enactment” has the same meaning that it has in the Interpretation Act 2005;]

[“functional area” means—

(a) in relation to a city council, the administrative area of that city council,

(b) in relation to a county council—

(i) the administrative area of that county council, and

(ii) the administrative area of any town council (within the meaning of the Local Government Act 2001) situated within the administrative area of that county council;]

“housing authority” has the same meaning as it has in the Act of 1992;

[“late payment fee” has the meaning assigned to it by section 6(1);]

“liability date” has the meaning assigned to it by section 3 (1) and (2);

“local authority” means a county council or a city council;

“Minister” means the Minister for the Environment, Heritage and Local Government;

[“owner”, in relation to a residential property, means—

(a) a person (other than a mortgagee not in possession) who—

(i) in the case of a residential property that is let under a lease or held under a tenancy for a term not exceeding 20 years, is entitled to receive the rent under that lease or tenancy, whether in his or her own right or as trustee or agent for another person, or

(ii) in the case of a residential property that is not so let or so held, would, subject to paragraph (b), be so entitled if the residential property were so let or so held, whether in that person’s own right or as trustee or agent for another person,

or

(b) where the property is let under a lease or held under a tenancy for a term exceeding 20 years, the person (other than a mortgagee not in possession) who is the lessee under that lease or the tenant under that tenancy;]

“prescribed” means prescribed by regulations made by the Minister;

[“relevant local authority” means—

(a) in relation to a residential property wholly situated in the functional area of a city council, that city council,

(b) in relation to a residential property wholly situated in the functional area of a county council, that county council, and

(c) in relation to a residential property situated partly in the functional area of a county council and partly in the functional area of another county council or a city council, the local authority in whose functional area the greater part of the residential property, by area, is situated.]

[Meaning of residential property.

2.—(1) In this Act ‘residential property’ means, subject to subsection (2), a building that is situated in the State and that is occupied, or suitable for occupation, as a separate dwelling, whether or not the occupier shares, or would be entitled to share, in connection therewith, any accommodation, amenity or facility with any other person, and includes—

(a) a house, maisonette, flat or apartment (including the form of accommodation commonly known as a bedsit), and



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

(2) For the purposes of this Act, none of the following is a residential property:

(a) a building—

(i) from which no income has been derived since the building's construction,

(ii) that, since the building's construction, has never been used as a dwelling, and

(iii) that forms part of the trading stock of a business;

(b) a building vested in a Minister of the Government, a housing authority (within the meaning of the Act of 1992) or the Health Service Executive;

(c) a building owned by a body standing approved for the purposes of section 6 of the Act of 1992;

(d) a building that—

(i) is wholly used as a dwelling (other than a dwelling that forms part of a mixed hereditament within the meaning of the Local Government (Financial Provisions) Act 1978), and

(ii) in respect of which local authority rates are payable;

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

(f) an approved building within the meaning of section 482 of the Act of 1997.

(3) In this section 'business' includes—

(a) the business of a company to which—

(i) an examiner, liquidator or receiver has been appointed under the Companies Acts,

(ii) a statutory receiver has been appointed under the National Asset Management Agency Act 2009, or

(iii) a receiver has been appointed under any other enactment,

and

(b) the business of an individual—

(i) who is a bankrupt or an arranging debtor within the meaning of the Bankruptcy Act 1988, all or part of whose property vests in a receiver, manager or the Official Assignee in Bankruptcy in accordance with that Act, or

(ii) where, in respect of all or part of the trading stock of the business, a statutory receiver has been appointed under the National Asset Management Agency Act 2009.]

Charge on certain residential property. **3.—**[...]

Exemptions from charge. 4.—[...]

Declaration of liability and payment of charge. 5.—[...]

Late payment fee. 6.—[...]

Unpaid amount to be a charge on property. 7.— (1) Any charge or late payment fee due and unpaid by an owner of residential property shall, subject to *subsection (2)*, be and remain a charge on the property to which it relates.

(2) The said property shall not, as against a bona fide purchaser for full consideration in money or money's worth or a mortgagee, remain charged with or liable to the payment of such unpaid charge or late payment fee after the expiration of 12 years from the date upon which the amount concerned fell due.

[Application for certificate of exemption. 8.— (1) The owner of a residential property may apply to the relevant local authority for a certificate (in this Act referred to as a "certificate of exemption"), in respect of such liability date or liability dates as are specified in the certificate, stating that, by virtue of subsection (1), (2), (4), (5), (6) or (7) of section 4, no charge was payable in respect of the residential property, and specifying the reasons why no such charge was payable.

(2) An applicant for a certificate of exemption shall provide the relevant local authority with all such information as it may reasonably require for the purpose of its making a decision in relation to the application.

(3) When a relevant local authority receives from the applicant for a certificate of exemption all such information as it may reasonably require for the purpose of its making a decision in relation to the application, the relevant local authority shall within 14 days—

(a) if it is satisfied that in respect of any particular liability date or liability dates a charge was not payable in respect of the residential property concerned, issue a certificate of exemption to the applicant in respect of the residential property and the date or dates concerned, or

(b) if it is not so satisfied, refuse the application, give the applicant a statement in writing of the reason for the refusal and inform the applicant in writing of his or her entitlement to appeal the refusal to the District Court in accordance with this section.

(4) Where a relevant local authority refuses an application under this section, the applicant for the certificate concerned may appeal the refusal to the District Court.

(5) On the hearing of an appeal under this section, the District Court may—

(a) allow the appeal and direct the relevant local authority to issue a certificate of exemption to the appellant in such terms as the court shall specify, or

(b) affirm the refusal of the application concerned.

(6) An appeal against a refusal of a certificate of exemption shall be made to a judge of the District Court for the time being assigned to the district court district in which the residential property concerned is situated.]

[Receipts, certificates and requirements on sale of residential property.]

**8A.—** (1) Where a person pays a charge or a late payment fee to a relevant local authority in respect of a residential property, that local authority shall give the person a receipt in writing in respect of the payment.

(2) Where a relevant local authority receives payment in full of a charge and all related late payment fees in respect of a residential property, it shall, on application to it in writing by or on behalf of the owner of the residential property, within 14 days, give that owner a certificate (in this section referred to as a “certificate of discharge”) confirming that the charge in respect of the year concerned has been paid and that no late payment fee is due or owing in respect of the property for that year.

(3) The vendor of a residential property shall, before the completion of the sale of the property, pay to the relevant local authority all charges and late payment fees due and owing to the relevant local authority in respect of that residential property.

(4) On or before the completion of the sale of a residential property, the vendor of that residential property shall, in respect of that residential property, give to the purchaser—

(a) a certificate of discharge, or

(b) a certificate of exemption,

as may be appropriate, in respect of each year in which a liability date fell since the date of the last sale of the property.

(5) As against a bona fide purchaser or mortgagee of such property for full consideration in money or money’s worth without notice, or a person deriving title from or under such a purchaser or mortgagee, a certificate of discharge or a certificate of exemption shall discharge the property concerned from liability for any charge or late payment fee due by the owner of that property for each year in which the liability date or dates to which the certificate relates fell.

(6) A person who contravenes subsection (3) shall be guilty of an offence and shall be liable on summary conviction to a class C fine.

(7) A relevant local authority—

(a) shall not charge a fee in respect of the issue by it of a receipt, a certificate of discharge or a certificate of exemption, and

(b) may charge a fee in respect of the issue by it of a duplicate of such receipt or certificate not exceeding the reasonable cost of issuing the duplicate.

(8) In this section—

“purchaser” includes, in relation to a residential property, a transferee under a transfer referred to in the definition of ‘sale’ in this subsection;

“sale” includes, in relation to a residential property, the transfer of the residential property by the owner to another person—

(a) in consequence of—

(i) the exercise of a power under any enactment to compulsorily acquire land, or

(ii) the giving of notice of intention to exercise such power,

or

(b) 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;

“vendor” includes, in relation to a residential property—

(a) a person who transfers the property to another person—

(i) in consequence of—

(I) the exercise of a power under any enactment to compulsorily acquire land, or

(II) the giving of notice of intention to exercise such power,

or

(ii) 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

(b) an agent of the owner of the residential property who—

(i) receives the proceeds of the sale of the residential property or part thereof on behalf of the owner, or

(ii) provides legal advice to the owner in connection with a transfer referred to in subparagraph (ii) of paragraph (a) of the property by the owner.]

[Forged and altered documents.

**8B.**— (1) It shall be an offence for a person to forge or utter knowing it to be forged a certificate or other document purporting to be issued under this Act (in this section referred to as ‘a forged document’).

(2) It shall be an offence for a person to alter with intent to defraud or deceive, or to utter knowing it to be so altered, a certificate or other document issued under this Act (in this section referred to as ‘an altered document’).

(3) It shall be an offence for a person to have, without lawful authority, in his or her possession a forged document or an altered document.

(4) It shall be an offence for a person to aid or abet the commission of an offence under this section.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or both, and

(b) on conviction on indictment, to a fine not exceeding €25,000 or to imprisonment for a term not exceeding 2 years or both.]

Collection, care and management of charge.

**9.**—[...]

[Delegation of functions of local authority.

**10.**— (1) A relevant local authority may delegate to a relevant board such one or more than one of its functions (other than the power to bring proceedings for an offence) relating to the collection of charges or late payment fees as it considers appropriate.

(2) A relevant local authority shall, where the Minister so directs in writing, delegate to a relevant board such one or more than one of its functions (other than the power to bring proceedings for an offence) relating to the collection of charges or late payment fees as may be specified in the direction.

(3) Where a delegation is made by a relevant local authority to a relevant board under this section—

(a) the relevant board shall perform the functions concerned in accordance with any limitations specified in the delegation as to the area, period in which, or extent to which it is to perform those functions,

(b) a provision of or under this Act or any other enactment (whether passed or made before or after the passing of this Act) that vests functions in the relevant local authority or regulates the manner in which any function is to be performed shall, if and in so far as it is applicable to the delegated function, have effect, for the purposes of the performance of that function by the relevant board, with the substitution of the relevant board for the relevant local authority, and accordingly references in any such provision to a local authority shall for the purposes of the performance of the delegated function by the relevant board be construed as references to the relevant board.

(4) A relevant board shall be paid such fees and expenses (if any) in respect of the performance by it of functions delegated under this section as may be prescribed.

(5) A local authority shall not revoke a delegation under subsection (1) or (2) except with the consent of the Minister.

(6) A local authority shall, where the Minister so directs in writing, revoke a delegation under this section.

(7) The functions conferred on a local authority by this section shall be executive functions for the purposes of the Act of 2001.

[(8) In this section ‘relevant board’ means—

(a) the Local Government Computer Services Board established by the Local Government Computer Services Board (Establishment) Order 1975 (S.I. No. 212 of 1975), or a body to whom the functions of that Board have been transferred by order under section 5A (inserted by section 7 of the Local Government (Miscellaneous Provisions) Act 2012) of the Local Government Services (Corporate Bodies) Act 1971, and

(b) the Local Government Management Services Board established by the Local Government Management Services Board (Establishment) Order 1996 (S.I. No. 410 of 1996), or a body to whom the functions of that Board have been transferred by order under section 5A (inserted by section 7 of the Local Government (Miscellaneous Provisions) Act 2012) of the Local Government Services (Corporate Bodies) Act 1971,

or either of them.]]

[Data sharing and exchange. 11.—(1) Notwithstanding any enactment or rule of law—

(a) a relevant person shall, upon a request from a local authority, provide the local authority with such information in the possession or control of the relevant person or, where the relevant person is a body corporate, any subsidiary (within the meaning of section 155 of the Companies Act 1963) of the relevant person as the local authority may reasonably require for the purpose of enabling the local authority to perform its functions under this Act,

- (b) a local authority shall, at such intervals as the Revenue Commissioners may specify, provide the Revenue Commissioners with such information obtained by the local authority pursuant to this Act, including tax reference numbers, as the Revenue Commissioners may reasonably require for the purpose of enabling them to perform their functions under a specified enactment, and
- (c) a local authority shall, upon a request from, and at such intervals as may be specified by, a Minister of the Government, a local authority or a prescribed person, provide the Minister of the Government, the local authority or the prescribed person, as may be appropriate, with such information obtained by the local authority pursuant to this Act as the Minister of the Government, the local authority or the prescribed person concerned may reasonably require for the purpose of enabling him or her to perform his or her functions.

(2) The Minister shall not prescribe a person for the purposes of paragraph (c) of subsection (1) unless he or she is satisfied that the provision by a local authority of information obtained by the local authority pursuant to this Act to such person will assist the person in discharging a function conferred on, or delegated to, him or her by or under any enactment.

(3) In this section—

“Act of 2010” means the Value-Added Tax Consolidation Act 2010;

“relevant person” means—

- (a) the Private Residential Tenancies Board established under section 150 of the Residential Tenancies Act 2004,
- (b) the Electricity Supply Board established in accordance with the Electricity (Supply) Act 1927,
- (c) the Revenue Commissioners,
- (d) the Minister for Social Protection, or
- (e) any other person standing prescribed for the time being;

“specified enactment” means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) the Act of 2010,
- (d) the Stamp Duties Consolidation Act 1999, or
- (e) the Act of 2003;

“tax reference number” means—

- (a) in relation to an individual, that individual’s personal public service number (within the meaning of section 262 of the Act of 2005), or
- (b) in relation to a body corporate—
  - (i) the reference number stated on any return of income form or notice of assessment issued to that person by an officer of the Revenue Commissioners, or
  - (ii) the registration number of the body corporate for the purposes of the Act of 2010.]

Offences and penalties.

12.— (1) A person guilty of an offence under *section 5* shall be liable on summary conviction to a fine not exceeding €2,000.

(2) A person who is convicted of an offence under *section 5* shall, on each day on which the contravention of which that offence consists is continued by the person after having been so convicted, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €100.

(3) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted not later than 2 years from the date on which [the relevant local authority forms the opinion that there exists sufficient evidence to justify the institution of proceedings for the offence concerned,] but in no case shall such proceedings be commenced later than 6 years from the date on which the offence concerned was committed.

(4) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of [...] any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Summary proceedings for an offence under this Act may be brought and prosecuted by the relevant local authority for the residential property to which the offence relates.

(6) Where a person is convicted of an offence under this Act, the court shall order the person to pay to the local authority concerned the costs and expenses, measured by the court, incurred by the local authority in relation to the investigation, detection and prosecution of the offence, unless the court is satisfied that there are special and substantial reasons for not so doing.

[(7) Where a person is convicted of an offence under either subsection (5) or subsection (7) (in so far as either subsection relates to paragraph (c) of subsection (2)) of *section 5*, the court may, in determining the amount of the fine to impose on the person in respect of that offence, take account of any late payment fee or late payment interest, or both, paid by the person in connection with the failure to pay the household charge to which the offence relates.]

Expenses of Minister.

13.— The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Regulations, orders and directions.

14.— [...]

Payment to town councils.

15.— (1) A county council shall, each year, make a payment to each town council [within the administrative area of the county council], and such payment shall be calculated having regard to—

- (a) the income from the charge and any associated late payment fees collected in respect of residential properties in the administrative area of the town council concerned, and
- (b) the costs incurred by the said county council in connection with the collecting of the said income.

(2) In this section—

“administrative area”, in relation to a town council, means the area which continues to stand established under section 10 of the Act of 2001 for the purposes of local government in respect of that town council;

“town council” means a body having charge of a local government area referred to in section 10(3) of, and set out in Part 1 of Schedule 6 to, the Act of 2001.

Short title and commencement.

**16.—** (1) This Act may be cited as the Local Government (Charges) Act 2009.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.