

Non Principal Private Residence Charge

The Local Government (Charges) Act 2009 (the “Act”) as enacted on 24 July 2009 provides for the introduction of a €200 charge on certain residential property. This charge was originally announced by Minister Lenihan in the supplementary April 2009 Budget.

In general, the annual €200 charge will be payable in respect of non principal private residences located in the State. A payment will be required to be made by an “owner” of a residential property held by them at the “liability date”. For the purposes of the Act, an “owner” is defined as including any person who is entitled to (i) receive the rent of a property or (ii) where the property is not let, would be so entitled to receive rent if it were rented. The broadness of the definition not only includes ultimate beneficial owners but also can include a trustee (see exemptions below), agent or executor of an estate.

A liability will be calculated by reference to the “liability date”. In respect of the 2009 period, the liability date has been set at 31 July 2009 and payment is required to be made by 30 September 2009. For 2010 and future periods, the liability date will be 31 March of each year. Liabilities will be required to be discharged by 31 May of the relevant year.

As indicated above, payments in respect of the 2009 period should be made by 30 September 2009. However, from our reading of the Act it would appear that the absolute final date by which the 2009 should be paid is 31 October 2009.

Exemptions

The Act provides for specific instances in which a residential property will not be within the scope of the charge. These are:

- Property occupied by the owner as his / her sole or main residence.
- The letting of a room under the Rent a Room Scheme is not liable to the charge. However, in keeping with the requirements of the Rent a Room Scheme, in order for this treatment to apply it is necessary for the owner to reside in the property.
- Residential property comprised in a discretionary trust.
- Property owned by a Revenue approved charity.
- Where the owner temporarily owns two properties at the liability date. This will only apply where the second property was acquired within one year of the liability date and the first property was disposed of within six months of the liability date. This exemption is supposed to provide for circumstances where individuals are changing homes.
- A spouse who is a joint owner of a property will not be liable to the charge if the property is occupied by the owner joint owning spouse as their principal private residence. In order to avail of the exemption, it is necessary for a decree of divorce or a decree of judicial separation to have been obtained prior to the liability date.
- An individual who does not reside in their property due to they being incapacitated by long term mental or physical illness.
- A property occupied on a rent free basis by a dependent relative. Such a property is required to be located within 2Km of the owners main residence.
- Newly constructed residential property. However, such properties must form part of the trading stock of the owner and must never have been occupied.
- Property occupied under a shared ownership arrangement scheme with a housing authority / Health Service Executive / voluntary housing body.

Co Ownership of Property

Residential property which is liable to the charge may be owned by two or more persons. In such circumstances, each co-owner will be jointly and severally liable to pay the charge. The payment of the €200 charge by one of the co-owners will discharge each of the other co-owners of their liability.

Initial & Payment Dates

As indicated above, a liability to the charge will be calculated by reference to the liability date. The position for 2009 and future periods can be summarised as follows:

	2009 Period	2010 & Future Periods
Liability Date	31 July 2009	31 March of relevant year
Payment Date	30 September 2009	31 May of relevant year

Failure to pay a liability in full on or before the relevant payment date will give rise to a late payment charge. A window of one month has been provided for by the Act post the relevant payment dates. Where payment has still not been discharged at this later date, a €20 late payment fee will apply in respect of each month, or part thereof, which the charge remains outstanding.

All unpaid charges will automatically become a charge on the relevant property.

Payment

Payment can be made online at www.nppr.ie or alternatively by way of bank draft / postal order / cheque. Irrespective of the manner in which payment is made, the following particulars will be required:

- Name of property owner
- Property address
- Correspondence address
- PPS Number (Personal Public Service Number) of the owner or tax reference number if the owner is a corporate body

Should you have any queries in relation to the above, please contact either Mark Barrett (mark.barrett@moorestephensnathans.com) or Cormac Kelleher (Cormac.kelleher@moorestephensnathans.com)