

59. Managing Residential Investment Property IV

Registration of Tenancies

Landlords are obliged to register details of all residential tenancies with the Private Residential Tenancies Board. The PRTB maintains a register with certain information about the tenancy, which is available on-line. It does not contain the key commercial terms of the letting. A mortgagee may be able to obtain details of the letting from the Residential Tenancies Board on the basis of having an interest. The registration fee is "70 per tenancy with a cap of "200 where there are several tenancies or a number of units in one building.

Each new tenancy must be registered. The required details, include the PPS number of the landlord, the name and PPS number of tenants, details of the property, the commencement date, the term and the rent under the lease. Within one month of every change in the rent, the landlord is obliged to advise the Board of the renewed rent. Certain important changes such as cessation of tenancies must be registered as must cessation of the property being a rented property. It is an offence, not to register where required.

Rent Books

There is a requirement for a landlord to furnish a tenant with a rent book. There is a prescribed format. The regulations require that the rent books must include;

- details of the property;
- name and address of landlord tenant
- rent and when and how it is paid;
- amounts charged for services;
- amount and purpose of deposit;
- date of commencement;
- particulars of furnishings and appliances provided

The rent book must contain a statement of tenants' rights in a prescribed format.

Minimum Housing Standards

Regulations made in 1993 prescribe minimum standards for rented "houses". A "house" includes an apartment and any kind of residential unit. The regulations have been recently updated. The most significant changes will not commence until 2013. The regulations apply to every house left for rent, with some minimal exceptions.

A house must be in a proper state of structural repair. This means it must be essentially sound with roof, floors, ceilings,

walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective.

The following must be provided;

- a sink in the habitable area;
- a water closet and fixed bath or shower in the habitable area or on the floor above or below; there are certain exemptions for lettings granted prior to 1993;
- adequate water and drainage is to be provided for each sink and water closet fixed bath or shower required;
- an appliance or appliances capable of providing adequate heating;
- facilities for the installation of cooking equipment with provision, where necessary, for the safe and effective removal of fumes and other products of combustion to the external air, and
- facilities for the hygienic storage of food.

Installations for electricity and gas must be maintained in good working repair and condition with safe and effective removal of fumes. Every room must have adequate ventilation. Windows and other means of ventilation must be maintained in good repair. Every bathroom or toilet must have a certain minimum ventilation.

All means of preparation, cooking and storage of food, lighting and heating which are used, or intended for use, in common by the occupants of more than one house shall be maintained in good repair and safe working order. Every sink, watercloset, fixed bath, shower, room, stairway, landing, passage, open space and other part of the building in which the let unit is situated, which is used, or intended for use, in common by the occupants of more than one unit shall be maintained in good repair and in a clean condition.

New regulations in relation to housing standards commenced in February 2009. Some of the more onerous aspects of the regulations, which relate to sanitary facilities, heating and food preparation do not come into effect until February 2013. The regulations are much the same as regards structure and repair. A house must be maintained in a proper state of structural repair. This means that the property must be essentially sound with roof, floors, ceiling, walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective.

There are additional requirements in relation to ventilation, fire safety, refuse disposal, and electricity which are now in force. The

provision which are due to come in to force in 2013 will require:

- toilet, bath and shower within the habitable area;
- permanently fixed effective heating;
- suitable and adequate facilities for the safe and effective removal of fumes;
- specific cooking, washing, food preparation and fridge facilities and presses.

Proposed Multi Unit Regulation

Legislation is due to be passed in the near future, regulating apartments and other multi unit development. The legislation is designed to deal with perceived abuses and shortcomings that arise with developers and management companies.

The legislation will regulate management companies in multi-unit developments where more than five units are designed for residential use. A management company must be set up and ownership of the common areas must be transferred to it. In the case of existing multi-unit developments, the developer must transfer ownership of the common parts within six months of commencement to the Act. The developer must complete the common areas if they are

uncompleted.

The legislation imposes specific obligations on management companies. There must be an annual report, accounts and general meetings. Certain notices must be given to the owners. Management companies must establish a scheme for annual service charges to fund expenditure and maintenance of the common areas. It may not be used to defray matters which are the responsibility of the developer, unless more than 90 per cent of members approve.

There is an obligation to establish a sinking fund to make provision for the cost of refurbishment, improvements and maintenance of a non-recurring nature. Owners must be make contributions to the sinking fund. It must be held in separate accounts.

There will be a power for the owner's management company to make house rules. They must be approved by a management meeting of which not less than 21 days notice has been given in advance.

Letting Agreements

A letting agreement for a term of one year or more must be in writing and signed by the parties. Verbal lettings for a shorter period are valid. The Dublin Solicitors Bar

Association has produced a draft letting agreement, consistent with the Residential Tenancies Act. Any older forms in use are likely to be inconsistent with the Act so that many of its terms and conditions will be overridden.

Energy Rating Certificate

A BER (Building Energy Rating) certificate rates the energy rating of dwellings. %A+ rated homes are the most energy efficient and G the least efficient. From the 1st of January 2009 a BER certificate is compulsory for all homes being sold or rented. All new homes (even when not for sale) must have a BER certificate before they are occupied.

BERs will be carried out by BER Assessors, registered by Sustainable Energy Ireland (SEI). A list of BER Assessors is available on the SEI. It is an offence for persons not registered with SEI as BER Assessors to purport to carry out a BER assessment service for the purposes of the Regulations. BERs cost in the region of " 250.

This is an extract from our "Legal Guide to the Management and Enforcement of Security in Ireland" (2009). The Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances. It should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances. While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in it. The reader should rely only on specific legal or taxation advice. This extract is based on the law as of 1st October 2009.

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