



Chief Executive
cc. Head of Finance

4 June 2021

Circular Fin 09/2021

Non Principal Private Residence Charge (NPPR) – Phased Expiry of NPPR Charges, Late Payment Fees and Charge on a Property

I am directed by the Minister of State at the Department of Housing, Local Government and Heritage to refer to the Local Government (Charges) Act 2009, as amended, and the phased expiry of NPPR Charges, Late Payment Fees and Charge on a Property.

Background

The Local Government (Charges) Act 2009 is the legislative basis of the NPPR charge. The NPPR charge applied in the years 2009 to 2013 to any residential property in which the owner did not reside as their normal place of residence. The self-assessed charge was set at €200 per annum.

Proceeds from the charge are retained by local authorities and used to fund the provision of local services.

Charge and late payment fees

As set out in the Local Government (Charges) Act 2009, as amended, liability to pay the charge is determined on the basis of ownership of the property in question on a single date each year. The "liability date", is 31 July for 2009 and is 31 March for the years 2010-2013. The charge must have been paid within three months of the liability date (31 October in 2009 and 30 June for 2010, 2011, 2012 and 2013) in order to avoid late payment fees.

Section 6 of the 2009 Act, as amended, provides that the owner of a liable property who failed to pay the charge, in addition to his or her being liable to pay the charge, was liable to pay to the relevant local authority a €20 late payment fee in respect of each month or part of a month in which the charge, any late payment fee, or any part of such charge or fee, remained unpaid.

With the introduction of the Local Property Tax, 2013 was the last year of operation of the NPPR charge. However, outstanding NPPR liabilities and payments remain payable to the local authority in whose area the property concerned is located. In 2014, property owners were given opportunity to bring their NPPR charge affairs up to date in the period from 2 March 2014 to the end of August 2014, during which time no new late payment



penalties were applied to existing liabilities. If payment was not made in full, or, if settlement terms were not agreed by the end of that period, an additional late payment fee of €120 per liability date was applied on 1 September 2014. In addition, the entire NPPR liability was increased by a factor of 50% and frozen.

Liability dates and associated fees which include late payment penalties:

Year Of Charge	Amount Due
2009	€2070
2010	€1830
2011	€1470
2012	€1110
2013	€750
Total	€7230

NPPR as a “charge on property”

Section 7(1) of the Local Government (Charges) Act 2009, as amended, states as follows:-

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.

The purpose of the charge on property is to ensure collection of the outstanding liability during the sale of the property. The existence of the legal fetter, called a “charge on a property” prevents sale of a property without payment of the fees and penalties.

If a residential property is sold, the existence of a “charge on the property” means the vendor is liable to pay all outstanding fees, penalties and interest due before completion of the sale. Therefore, despite the abolition of the NPPR charge in 2013, to date, vendors and their solicitors still have to deal with these charges. Under the legislation, a vendor is obliged to give to the purchaser either a certificate of discharge (to prove payment of NPPR liabilities) or a certificate of exemption (to prove no liability was declared) in respect of the NPPR charge.

Expiry of NPPR liability and charge on property after 12 years

Section 7(2) of the Local Government (Charges) Act 2009, as amended, states as follows:-

7(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.



Accordingly, NPPR charges including late payment fees and the charge on a property expires for **all property owners** after 12 years from the date of liability. This means that for NPPR liabilities incurred from 2009 to 2013 and remaining unpaid, the portion of the liability and charge on a property which relates to 2009 will expire in 2021 and so on until the liability and charge on a property relating to the final year of NPPR in 2013, expires after 31 March 2025. This expiry corresponds with the repeal of the whole Act, also on 31 March 2025.

The charge and late payment fee relating to 2009 and the associated charge on a property expires after 31 July 2021.

Timeframe for expiry of charge on a property and NPPR liability

Each charge which became a charge on property is applied for its own 12 year period, measurable from the liability date. The liability and charge on property in respect of the 2009 NPPR charge, therefore, expires after 31 July 2021, and in respect of the 2013 NPPR charge expires after 31 March 2025.

If a property owner was liable for the NPPR for each year from 2009 to 2013, had not paid the NPPR and was subject to late payment fees, the amounts that would need to be paid in order to sell the property from 2021 onwards is as follows:

Period of sale of property	Liability and Amount Remaining as a “Charge on a Property,” (amount to be paid in order to be permitted to sell the property).	Year to which the remaining Liability and “Charge on a Property” relates
Up to 31 July 2021	All fees and penalties €7230	2009-2013
1 August 2021 to 31 March 2022	€5160	2010-2013
1 April 2022 to 31 March 2023	€3330	2011-2013
1 April 2023 to 31 March 2024	€1860	2012-2013
1 April 2024 to 31 March 2025	€750	2013
After 1 April 2025	None	None

From 1 August 2021, the amount of NPPR fees and penalties a vendor is required to pay in order to sell their property reduces every year until the liability and charge on the property expires completely on 1 April 2025.



Certificates of discharge or exemption

The gradual expiry of liabilities and the charge on a property means that by 1 April 2025 a vendor will no longer have to provide a certificate of discharge or exemption in order to sell their property.

During the period from 1 August 2021 until 31 March 2025, a vendor is only required to provide a certificate of discharge or exemption for the years for which the liability and charge has not yet expired and for the amount remaining liable on that date, as outlined in the table above.

The purpose of a certificate of exemption is to show no charge is payable for specific years. The purpose of a certificate of discharge is to show liability has been discharged and that no late payment fee is due or owing for specific years. From the point of view of a vendor or purchaser of a property, a certificate of discharge or a certificate of exemption discharges the property concerned from liability for any charge or late payment fee. For years in which liability has expired, it is difficult to foresee reasonable grounds for seeking or providing certificates of exemption or discharge. Notwithstanding that, sections 8 and 8A of the Local Government (Charges) Act 2009, as amended, which relate to the provision of certificates, will remain on the statute book.

As with all provisions of the Local Government (Charges) Act 2009 currently in force, sections 8 and 8A will be repealed on 31 March 2025.

Applicability of the Statute of Limitations to collection of NPPR liabilities

For the avoidance of doubt, the Statute of Limitations does not apply, meaning a local authority may not pursue a charge for 6 years after the expiry of the 12 year period provided in section 7(2) of the Local Government (Charges) Act 2009.

A local authority was permitted to pursue a liability as a simple contract debt by section 9(3) of the Local Government (Charges) Act 2009. Such an action was subject to a six year limitation period by section 11 of the Statute of Limitations. For example, an action to recover a 2010 NPPR charge liability had to be commenced prior to 1 April 2016. This is a separate matter from the 12 year period provided under section 7(2), which was intended to act as a fetter on the sale of a liable property. In a process whereby the local authority sought to collect liabilities through the use of section 9(3), as a simple contract debt, such an action could be taken within six years. Upon the local authority obtaining judgment in such a case, it was possible to register that judgment as a charge on property which would be extant for 12 years. That hypothetical charge on property following judgment would not be made pursuant to section 7 of the Local Government (Charges) Act 2009 and would exist separately from that Act. Such a procedure is separate from the statutory charge on property created by section 7 of the Local Government (Charges) Act 2009.



Repeal of the Act

As provided for in the legislation, the Local Government (Charges) Act 2009 will be repealed in its entirety on 31 March 2025. Liability for NPPR charges, late payment fees and any associated charge on a property, will expire completely after 31 March 2025. A vendor will no longer have to provide a certificate of discharge or exemption in order to sell their property, beyond that date 2025. Local authorities will not be required to provide receipts or certificates of exemption and discharge following repeal of the Act.

Any queries in relation to this circular or associated matters should be addressed to LGFinance@housing.gov.ie

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A handwritten signature in purple ink that reads "Lorraine O'Donoghue".

Lorraine O'Donoghue
Principal,
Local Government Finance