



## Section 32 of the Local Government Reform Act 2014 – Duty to inform rating authority of transfer of relevant property Frequently Asked Questions (FAQs)

### Duty to notify

1. **What are the new obligations on owners under section 32 of the Act?**
  - I. An owner is required to notify the local authority where there is a change in the person ordinarily liable for rates on his or her property, i.e. where there is a change in ownership, change in tenancy or where a tenant vacates and is not replaced immediately.
  - II. Where the owner is selling the property, it is their duty to pay all rates for which he or she is liable for at the date of transfer of the property.
  
2. **What are the new obligations on occupiers under section 32 of the Act?**
  - A. Outgoing occupiers are required to pay all rates for which they may be liable prior to or on the date of the transfer of the property/ date of their vacating the premises.
  
3. **In what circumstances does the obligation to notify the local authority arise?**
  - A. Where a property is being transferred from one person to another that would result in a change in the person liable for rates, i.e. a change in ownership; or a change in occupier including where an occupier leaves and the property becomes vacant.
  
4. **Does an obligation to notify arise if the property is sold and there is no change in occupier?**
  - A. No, the duty of the owner to inform the local authority of a transfer of property and the explicit duty on the person transferring the property to pay all rates for which he or she is liable for at the date of the transfer is predicated on the transfer bringing about a change in liability for rates on the property. If the ownership of a property transfers from one person to another without there being a change of occupancy then the duties associated with this section do not apply.

- 5. Does an obligation to notify arise if the occupier leaves and the property becomes vacant?**
- A. Yes, the owner is required to notify the local authority of this change as the outgoing occupier will no longer be liable for rates on the property in the future, hence determining a change in the occupier liable for rates.
- 6. Does an obligation to notify arise if a vacant property becomes occupied (i.e. leased/ rented)?**
- A. Yes, the owner of the property is required to notify the local authority as the incoming occupier will now become liable for rates on that property in the future.
- 7. When/ at what point in time does the owner's duty to notify the local authority arise?**
- A. Section 32 requires that the owner notifies the local authority not later than two weeks after the date of the transfer. Ownership transfers when the sale is complete. In the case of the transfer of tenancies and other interests, this is ordinarily determined on a date specified on the lease/ contract.
- 8. How does the owner fulfil his/ her obligation? What information is the owner required to provide the local authority?**
- A. Owners are required to notify the local authority of the details of the transfer and the details of the outgoing and incoming occupier. The form is available on the local authority website. Please download, complete, sign and return the notification form.
- 9. Who is required to notify the local authority of a transfer of property, an owner or their solicitor?**
- Can a solicitor notify on an owner's behalf?**
- A. Subsection 2(a) provides that either the owner or such other person as the owner has authorised in writing to act on his behalf must notify the local authority.
- 10. What happens if the owner does not notify the local authority of a transfer?**
- A. If the owner does not notify in writing the local authority of a transfer of a property (or the transfer of interest in a property) within 2 weeks of the date of transfer, he/she may be subject to the penalty of a charge equivalent to the level of rates outstanding from the previous occupier to a maximum of 2 years' worth of rates liabilities. Any such equivalent charge not paid by an owner will remain a charge on the property.

**11. What happens if the owner does not pay any outstanding rates he/she is liable for on the date of transfer?**

- A. Any rates due by the owner of property at the date of transfer and not paid will remain a charge on the property.

### **Application of the penalty under Section 32**

**12. At what point is the penalty of the equivalent charge determined?**

- A. Section 32(4) provides for a charge equivalent to up to two years of outstanding rates on the owner of a property who does not notify the local authority of a transfer of interest in a property within two weeks of the transfer and where the outstanding rates liable on date of transfer have not been paid.

The penalty accrues after the expiration of the 14 days, therefore on the 15<sup>th</sup> day after the transfer.

If it comes to the attention of the local authority at a later date than after the fifteenth day that the owner has not fulfilled their obligation, a penalty shall be applied. The penalty in this instance would still be an amount equivalent to the rates that remained outstanding from the previous occupier on the date the property/ interest in the property was transferred, up to a maximum of two years of rates liabilities.

**13. Does subsequent payment of the outstanding rates after the levying of the penalty/ equivalent charge affect the penalty/ equivalent charge?**

- A. No the equivalent charge (as determined on the 15th day after the date of transfer of the property) is not affected by the subsequent payment of the outstanding rates.

The equivalent charge is levied where the owner of the property has not notified the local authority of the transfer within 2 weeks of the transfer and where the person transferring the property has not paid all rates for which he or she is liable.

**14. Does the penalty/equivalent charge applying to the owner for failure to notify a local authority of a change of occupier also apply in instances where the owner was the previous occupier?**

- A. Yes. The owner, regardless if he is in occupation or not, must notify the local authority of the transfer of ownership or if a new occupier is coming in to replace him as occupant (i.e. brings about a change in liability for rates). If the owner does not notify the local authority and does not pay outstanding rates due, he or she will be liable for the penalty (of a value of up to two years outstanding rates) in addition to any other rates liability that arises from his or her occupation previously. Both the unpaid rates due from an owner and not paid on transfer and the equivalent charge shall remain a charge on the property (sections 32(3) and 32(5)) if not paid.

**Charge on a property**

**15. Do previous occupier's arrears become a charge on the property?**

- A. No, the liability for unpaid rates of a previous occupier does not become a charge on the property, unless that occupier is also the owner of that property.

**20 July 2021**