**Údarás Rialála Seirbhísí Maoine**

**Property Services Regulatory Authority**

# PSRA

*GUIDE*

*To*

*Audit Inspections*

*for*

*Property Services Providers*

*As provided for under the*

*Property Services (Regulation) Act 2011*

**June 2022**

# Disclaimer

These guidelines are not and do not purport to be a legal interpretation of the Property Services (Regulation) Act 2011 or any Regulations made under that Act.

These guidelines may be updated from time to time and the most recent version will be available on the Authority's website www.psr.ie.

# Introduction

This document is a guide designed to outline the requirements placed on licensees by the Property Services (Regulation) Act 2011 (the Act) and the Regulations made under that Act and how compliance with the legislation is assessed.

The requirements on property service providers as provided for under the Act, are assessed by the Authority as part of the Audit inspection process, ("Audit" in the remainder of this document).

Provisions relating to Improper Conduct and Offences under the Act are inspected by the Authority as part of this process. Each provision relating to Improper Conduct and Offences under the Act are clearly explained later in this Guide.

To assist the licensee in understanding and preparing for an Audit Inspection by an inspector appointed by the Authority, this guide provides the necessary information and guidance concerning the process.

This guide provides information relating to:

- Background to Audit inspection process
- A detailed outline of the Audit inspection process;
- An outline of improper conduct provisions as provided for in the Act;
- An outline of offences as provided for under the Act; and
- Appendix 1 provides the meaning of the key terms in the guide.

## Background to Compliance Audit Inspections as provided for under the Property Services (Regulation) Act 2011

Section 65(1)(a) of the Property Services (Regulation) Act 2011 (the Act) provides for the undertaking of an Audit inspection, by the Property Services Regulatory Authority (the Authority) on its own volition, without having received a complaint against the licensee concerned.

An Audit inspection will be carried out generally once every four to five years or more frequent as deemed appropriate by the Authority to establish whether the licensee is in compliance with the Act.

This Guide is an outline only of the procedure which the Authority adopts in conducting an Audit inspection. Licensees are advised that the Guide outlines the opportunity provided by the Authority for licensees to make submissions in relation to the draft report following the Audit inspection. Submissions received from licensees may influence the final report submitted by the inspector to the Authority who will consider whether the licensee has complied with the Act and whether sanction is appropriate.

## Steps in the Audit Inspection

An Audit inspection will generally concern itself with a number of matters on which the Authority wishes to establish the compliance by a licensee with the Act and with Regulations under the Act. The Audit inspection will be carried out by an inspector or inspectors appointed by the Authority.

**Contact with licensee**

1. The inspector will make contact with the licensee by telephone setting out the Audit procedure. It will also focus on the firm's business, processes and procedures and will assist the inspector to gain a better understanding of the operation of the business.
2. The licensee is given 30 days' notice of a proposed date for Audit or a date earlier if agreed by the licensee.

3. The inspector will email or write to the licensee confirming the date of the Audit, requesting the licensee to upload financial documentation to ShareFile prior to the Audit and enclose the following documents relevant to the Audit inspection;

    - Matters to be considered as part of the Audit
    - Documents to be made available to the inspector on the day
    - Part 7 and Part 8 of the Act
    - Audit Guide

**On Site visit**

4. The inspector will visit the licensee as part of the inspection on the date and time already agreed.

**Identification of inspector to licensee**

5. The inspector(s) will identify him/herself to the licensee through the production of an official PSRA identity card and outline the purpose of the visit to the licensee. If the inspector(s) is/are unavoidably delayed, every effort will be made to inform the licensee of any change in the expected time of arrival.

**Commencement of Compliance Audit Inspection**

6. The inspector will generally commence the Audit at the agreed time with the licensee and conduct interviews as well as require the production of documents and other records. The director/principal/partner of the firm will required to be available to attend an initial meeting on day of the Audit which will focus on the firm's business and processes and procedures and will assist the inspector(s) to gain a better understanding of the operation of the business. In order to ensure least disruption of the director's/principal's/partner's daily business routine, a member of staff may be nominated, if required, to liaise with the inspector(s) during the Audit and deal with issues as they arise. This is the most efficient means of managing the Audit.

7. The duration of the audit inspection at the licensee's premises is difficult to estimate. Generally, the Audit duration is half a day but this timeframe is very much dependent on a wide range of factors including size of the business and availability of relevant documents on the day of Audit.

**Examination/Review of Documentation**

8. The inspector(s) will have selected a number of transactions on the client and office accounts from the documents submitted via ShareFile prior to the visit for which supporting documentation and explanations will be required.

9. The inspector(s) will then proceed to examine a sample of client files. Additional information may be requested during the course of the inspection and the licensee must provide such documentation. The inspector(s) will take such copies of documentation, as considered necessary or appropriate for the performance of the Regulator's statutory duties.

   The inspector(s) may require additional meetings with representative of the business as appropriate.

**Wrap-up meeting**

10. At the end of the on-site visit, the director/partner/principal of the firm will be invited to attend a wrap-up meeting. At this meeting, the inspector(s) will engage and discuss with the licensee their findings. The licensee will also be afforded the opportunity to respond to and address all issues verbally in the first instance. The inspectors will give due consideration to any explanations provided by the licensee in relation to these issues.

    The inspector(s) will as a matter of course, take notes and licensees may wish to take their own notes of these discussions. Licensees are encouraged to seek clarification on any issues in relation to which they are unsure or where a further explanation is required. This meeting is designed to support and assist the licensee with compliance.

**Draft Report**

11. When the inspector is satisfied that all matters relating to the Audit have been fully considered, the inspector will prepare a Draft Report (S68 (1)(a)). A copy of the Draft Report will be provided to the licensee together with a copy of section 68 of the Act and a notice inviting the licensee to make a submission containing their observations, comments and or actions undertaken in respect of the Draft Report within 30 days of receipt of the Draft Report.

This is an opportunity for the licensee to seriously consider the findings of the Draft Report and to inform the Authority of any actions undertaken in addressing the issues identified at the wrap up meeting following the Audit or on receipt of the Draft Report. It is in the interest of the licensee to make a submission to the Authority addressing the findings of the Draft Report.

Any submission relating to the Draft Report received will be taken account of by the inspector(s).

12. In the absence of receipt of a submission 30 days after being invited to do so, the inspector will consider that the licensee does not wish to make a submission on the Draft Report.

13. After the period for receiving submissions has elapsed the inspector will consider the submissions (if any) and update the Draft Report accordingly.

**Final Report**

14. The Draft Report, where amended based on any submission received, is the inspector's Final Report. The inspector will submit the Final Report to the Authority. Where the inspector has identified a breach of the Act or the Client Moneys Regulations and is satisfied that improper conduct by the licensee has occurred or is occurring, they may not express an opinion as to the sanction that he or she thinks ought to be imposed on the licensee.

**Decision**

15. The Authority, having considered the inspector's Final Report (and any submissions received), has the following options available; where a sanction is imposed, the licensee will be notified of the sanction and the reasoning behind the Authority's decision.

    - if satisfied that improper conduct by the licensee has not occurred, will notify the licensee that they are in compliance with the audited sections of the Act.
    - if satisfied that improper conduct by the licensee has occurred, may impose a minor sanction or a major sanction on the licensee as the Authority sees fit.

Where a sanction is imposed, the licensee will be notified of the sanction and the reasoning behind the Authority's decision.

**Minor Sanctions that may be imposed;**

- Advice
- Caution
- Warning
- Reprimand
- Any combination of the above

**Right of Appeal – Appealing the Authority's Decision to impose a Minor Sanction**

A licensee who has had a minor sanction imposed by the Authority can appeal against that decision to the **Property Services Appeal Board** within 30 days of receipt of the notification of the Authority's decision. The Property Services Appeal Board is an independent statutory body responsible for hearing appeals against certain decisions of the Authority.

**Major Sanctions that may be imposed;**

- Revocation of licence
- Suspension of licence
- Payment of up to €50,000 into the Compensation Fund
- Payment of up to €50,000 to the Authority towards the cost of the inspection
- Payment of a penalty of up to €250,000 to the Authority
- Any combination of the above.

**Right of Appeal - Appealing the Authority's Decision to impose a Major Sanction**

A licensee who has had a major sanction imposed on him/her can appeal against that decision to the High Court within 30 days of receipt of the notification of the Authority's decision.

The Authority will, where a major sanction is imposed and an appeal against that decision has not been made within 30 days of notification, make an application to the High Court for confirmation of the decision.

# What will the Inspector Audit?

As stated earlier an Audit will generally concern itself with a number of matters on which the Authority wishes to establish the compliance by a licensee with the Act and Regulations under the Act. The Audit will be carried out by inspector(s) appointed by the Authority. The following sections of the Act may in part or in full form part of the Audit i to establish whether improper conduct has occurred.

**Providing property services without a licence is prohibited**

S28. In order to advertise a property service or to be available to provide a property service, a person must hold a valid and current license issued by the Authority to provide that particular property service. Licences fall into four different categories

(a) the auction of property other than land,

(b) the purchase or sale, by whatever means, of land,

(c) the letting of land (including a letting in conacre or for the purposes of agistment),

(d) property management services, and the licensee must hold the appropriate licence for the property service offered.

It is worth noting that property management services (category (D) licence) does not include the management of a letting on behalf of a landlord. Property management services, within the meaning of the Act, is typically the management of multi-unit developments (apartment blocks or other managed residential developments) on behalf of an Owners' Management Company.

Employees and principal officers may not provide property services on their own behalf or on behalf of a property services employer unless licensed to do so The employee/principal officer can be licensed to provide property services on behalf of more than one property services employer and a separate (employee/principal officer) licence is required for each employment.

(Note: "Property Services Employer" can be a company, a partnership or a sole trader and will be referred to as "employer" in the reminder of this document.)

In cases where an employee/principal officer has taken up new employment, an employee/principal officer must surrender his/her licence and request that the licence be amended to reflect a new employment. A Change of employer request must be made through psralicences.ie. There is no fee for this amendment and the amended licence expires on the same date as the surrendered licence.

An employee/principal officer cannot be licensed to provide a property service which the employer is not licensed to provide e.g. a company is licensed to provide services

(b) and (c), therefore an employee cannot be licensed to provide services (a) or (d) on behalf of that company.

**Notification to the Authority of changes to the Register of Property Services Providers**

S29. The Authority publishes a register of licensees known as the Register of Property Services Providers (the Register). A licensee is obliged to notify the Authority of any error that the licensee knows of in the entry on the Register which relates to the licensee. A licensee is also obliged to notify the Authority of any change in circumstance that is likely to have a bearing on the accuracy of the entry on the Register and also to any relevant changes since being licensed. A notification must be sent to the Authority as soon as possible after the licensee becomes aware of the error or the change in circumstance.

**Display and Production of Licence**

S37(1). An Independent Contractor, a Sole Trader, a principal officer or an employee must have their licence in their possession when providing the property service they are licensed to provide and must produce it for inspection when requested by any person to whom the licensee is providing the property service.

Each of the licensees to which this applies has been issued with a credit card sized licence which bears the licensee's name, photograph and the property services that they are licensed to provide. In the case of employees/principal officers, the name of the employer on whose behalf they are licensed to provide those services is included.

This credit card sized licence will be referred to as a "personal licence" in the remainder

of this document.

S37(2). A licensee must:

(a) conspicuously display their Business licence (Green A4 sized licence) in their principal place of business,

and

(b) conspicuously display their Duplicate Business licence in any other place of business. This licence to be made available for inspection on request by the inspector. The Authority issues duplicate licences for this purpose (there is no fee payable for duplicate licences). It is not acceptable to copy a licence for one premises and display it at another.

S37(4). A licensee must produce their licence for inspection on request from an inspector (appointed under the Act) and allow the inspector to examine the licence.

This provision is in addition to the requirement under S37(1). The licensee is not required to be providing a property service at the time of the request by the inspector.

S37(5). All advertisements (print, web advertising and business website), business correspondence (invoices, receipts and business letters) and signs (boards and directional signage) must contain the **six** digit licence number of the employer/independent contractor.

The licence number must only appear when the licence is in force and no impression should be given by unlicensed businesses that they are licensed by the Authority.

S37(6). When conducting an auction which is not at the licensee's place of business e.g. carrying out and Auction on the premises being sold or at an auction conducted in a hotel, the licensee must display their A4 sized green licence at the auction venue.

**Letter of Engagement/Property Services Agreement**

Letters of Engagement are a cornerstone of providing clarity between the licensee and the client. They become Property Services Agreements when signed by licensee and client.

S43(1). A licensee who is providing a property service is required to provide a signed Letter of Engagement (two copies) to their client within 7 working days of starting to provide the service. The client must return the signed Letter of Engagement within 7 working days immediately following the expiration of the 7 working days from when the licensee signed the document. "Letters of Engagement" templates are available on the Authority's website www.psr.ie. The client to be advised to sign and retain the second copy for their own records.

S43(2). If a licensee does not receive a signed copy of the Letter of Engagement from their client within 7 working days immediately following the expiration of the 7 working days from when the licensee signed the document they must cease providing the property service originally agreed.

S43(3). Amendments to a property services agreement must be agreed between the licensee and the client and an amended agreement (two copies) signed by the licensee must be sent to the client. The client must sign and return the amended Letter of Engagement or the proposed amendment does not come into force.

**Retention of Records by licensee**

S44. Licensees are required to keep records in the provision of property services for not less than 6 years.

**Professional Indemnity Insurance**

S45. A licensee who is an Independent Contractor, Sole Trader or a Company, must have in place Professional Indemnity Insurance which satisfies the requirements of S.I. 182 Professional Indemnity Insurance Regulations.

**Advised Market/Letting Value**

S55.The AMV/ALV advertised in any form must not be less than the AMV/ALV quoted in the Letter of Engagement.

**Provision of Financial Services**

S60. Where a licensee provides financial services to prospective purchasers they must complete Forms PSRA/S60 (P) for the purchaser and PSRA/S60(V) for the vendor to advise each party of the fact.

**Retention of Records for Sale of Land (not by auction)**

S61. Licensees are required to keep appropriate records, including records of offers and of conditional acceptances, for at least 6 years where land is offered for sale other than by auction. Template Record of Offer Form – PSRA/S61-2016 is available on the Authority's website.

**Continuous Professional Development (CPD)**

S81. A licensee is required to complete 5 hours CPD in a calendar year. Currently the providers of CPD are the Society of Chartered Surveyors in Ireland (SCSI) and the Institute of Professional Auctioneers and Valuers (IPAV). Non completion of CPD. is improper conduct under the Act.

**(Client Moneys) Regulations 2012 – S.I. No. 199 of 2012**

These regulations place obligations on licensees in relation to Client's Money. Compliance with these Regulations is confirmed, in the first instance, by an accountant in the context of a new licence application and licence renewal applications (from employers and independent contractors).

These Regulations apply to a licensee who is:

(a) A property service employer,

or

(b) An independent contractor.

**Client Funds - Requirement of Licensees**

The issues identified in this section do not purport to represent the full requirement of licensees but rather are a sample of the issues which the inspector(s) may review as part of the Audit. Licensees should make themselves aware of the full requirements of the Client Fund Regulations.

Licensees are required to;

- Open a Client Account, either current or deposit account in the name of a licensee with the word 'Client' appearing in the title name of the account.
- Keep proper accounting records detailing information regarding moneys received or held for, or paid to or on behalf of, each client.
- Hold accounting records for 7 years from either the date of the last entry or the date of the last dealing with client moneys whichever is the later.
- Pay moneys, without unnecessary delay on behalf of a client into the Client Account.
- Pay cheques or drafts which include both moneys for a client and other moneys, into the Client Account and then withdraw moneys that is not money for a client.
- Ensure that no payment, other than money for a client is placed in the Client Account.
- The licensee shall not withdraw money from a Client Account except subject to the amount of moneys withdrawn not exceeding the total of the moneys held for the time being in the Client Account on behalf of the client concerned.
- On withdrawal from the Client Account, record payee details on the Client Account cheque and cheque stub and requisition docket.
- Ensure that no debit balance occurs on the Client Ledger account in respect of clients, other than a debit balance which is fully offset by a credit balance arising from another Clients Ledger account in respect of the same client.
- Make sure that there is no discharge of personal or office expenditure from Client Account.
- Ensure that no moneys owing to the licensee are held in the Client Account for longer than three months.

- Only hold client moneys in the Client Account.
- Provide statement of fees and outlays to the client.
- Ensure proper books of account are maintained to provide for client moneys managed by the licensee to be recorded and entries to be properly vouched.
- Complete a Balancing Statement not later than 2 months after the balancing date to which it relates.
- Where, for whatever reason, moneys are withdrawn from the Client Account in contravention of Regulation 6(7), the licensee shall pay that amount into the Client Account in accordance with Regulation 7 and the licensee shall pay any interest accruing on such moneys.
- A licensee is not required to account for, or pay interest on client moneys to the client where the amount of interest would be less than €50.00 in respect of any one client.

**Minimum Accounting Records**

A licensee must maintain, in connection with the provision of property services, the following minimum accounting records:

- A Cash Book
- An Office Ledger
- A Client Ledger
- A Record of Bank Lodgements
- Bank Statements
- Bank Account Register
- Client File containing all documents generated in the course of the service provided

Please refer to section 11(1) of the Client Money Regulations for full list of requirements.

## ANTI-MONEY LAUNDERING

In 2016 The Minister for Justice and Equality prescribed the Property Services Regulatory Authority (PSRA) as the State Competent Authority for property service providers for the

purposes of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing Act 2010.

As the competent authority, the PSRA is tasked with monitoring property services providers who are described as "designated persons" and taking measures that are reasonably necessary for the purpose of securing compliance by property service providers with the requirements of Part 4 of the 2010 Act.

It is the responsibility of property service providers to interpret and to act in accordance with all relevant anti-money laundering legislation that applies to them.

The Authority in 2018 devised a Cash Origin form for the benefit of the licensee in respect of cash payments. The aim of the form is to reduce the risk of anti-money laundering activity in the sector and to place the onus on the customer to declare the origin of the funds.

The following documents in respect Criminal Justice **Money Laundering and Terrorist Financing) Act 2010 as Amended** are available on the Authority's website www.psr.ie

1. AML/CFT Business Risk Assessment.
2. Client Risk Assessment and Customer Due Diligence Checklist for Individual Clients.
3. Client Risk Assessment and Customer Due Diligence Checklist for Corporate Clients.
4. Client Risk Assessment and Customer Due Diligence Checklist for Partnerships.
5. Client Risk Assessment and Customer Due Diligence Checklist for Trusts.
6. Customer Risk Assessment and CDD Checklist for Occasional Transactions (or series of transactions) greater than €15,000.
7. Customer Risk Assessment and CDD Checklist for Occasional Transactions (or series of transactions) greater than €10,000 for Art Auctions only.
8. Cash Origin Form.
9. Suspicious Transaction Reporting.

## Offences under the Property Services (Regulation) Act

A number of offences under the Act can only be committed by a licensee, a second group

which can only be committed by a non-licensee and a third group which could be committed by a licensee or by a non-licensee. The offences will be described in the order in which they appear in the Act.

Generally, a "summary conviction" is imposed by the District Court and "conviction on indictment" is imposed by the Circuit Court following trial by jury.

S28. Providing a property service without being licensed by the Authority. The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine or imprisonment for a term not exceeding 5 years or both.

S38. Using another person's licence or to use a document purporting to be a licence. The sanction which may be imposed by a Court is, on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both.

S47(1). Lodging client money into an account other than a Client Account or, in the case of service charges and sinking fund contributions, a relevant account.
The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

S47(3) Making false or misleading entries in a licensee's accounting records. The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

S48. Failing to comply with a High Court order under section 48 in relation to Client Accounts and bank accounts of licensees (and former licensees).
The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000,

or

(b) on conviction on indictment, a fine not exceeding €50,000.

S58(1.) Bidding, at auction, for a person's own land or bid on behalf of another person for the other person's land.
A person is only permitted to bid on their own land or get another person to bid on their behalf where the auction of the land is in compliance with –

(a) a court order under the Family Law Act 1995,

or

(b) a court order under the Family Law (Divorce) Act 1996.

S66(17).

(a) Withholding, destroying, concealing or refusing to provide information/records in relation to an inspection

(b) failing or refusing to comply with a requirement by an inspector

(c) obstructing or hindering an inspector in performance of his/her functions under the Act.

The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

S67(3). Making allegations of improper conduct against a licensee knowing the allegations to be false or misleading

The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.

S67(7). An employer penalising an employee for communicating, to the Authority, the employee's opinion of a contravention of the Act or Regulations under the Act.

The sanctions which may be imposed by a Court are:

(a) on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both,

or

(b) on conviction on indictment, a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.

S72. Failing to surrender a licence, as directed, to the Authority where the decision of the Authority to suspend or revoke the licence has been confirmed by the High Court. The sanctions which may be imposed by a Court are on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both.

S74(6). Refusing or failing to comply with a requirement by the Property Services Appeal Board to submit information or document to it.

The sanction which may be imposed by a Court is, on summary conviction, a fine up to a maximum of €5,000.

S94 Making a false or misleading statement in an application or an appeal or giving a false or misleading document to the Authority or to the Property Services Appeal Board.

The sanctions which may be imposed by a Court are on summary conviction, a fine up to a maximum of €5,000 or imprisonment for a term not exceeding 12 months or both.

# APPENDIX 1

## Key Meanings;

*The meanings are in alphabetical order and, unless otherwise stated, are provided in section 2 of the Act.*

"advised letting value", in relation to land valued for letting by a licensee, means the licensee's reasonable estimate, at the time of such valuation—

(a) of the amount that would be paid by a willing tenant on appropriate letting terms in an arm's length transaction after proper marketing where both parties act knowledgeably, prudently and without compulsion, or

(b) of the relevant price range within which would fall the amount that would be paid by a willing tenant on appropriate letting terms in an arm's length transaction after proper marketing where both parties act knowledgeably, prudently and without compulsion;

"advised market value", in relation to land valued for sale by a licensee, means the licensee's reasonable estimate, at the time of such valuation—

(a) of the amount that would be paid by a willing buyer in an arm's length transaction after proper marketing where both parties act knowledgeably, prudently and without compulsion, or

(b) of the relevant price range within which would fall the amount that would be paid by a willing buyer in an arm's length transaction after proper marketing where both parties act knowledgeably, prudently and without compulsion;

"change in the principal officers" [FROM SECTION 41 OF THE ACT] , in relation to a body corporate or a partnership, means a person becoming or ceasing to be, by whatever means, a principal officer of the body corporate or the partnership, as the case may be; [END EXTRACT]

"improper conduct", in relation to a licensee, means—

(a) the commission by the licensee of an act which renders the licensee no longer a

fit and proper person to provide property services or a particular class of property service,

(b) the commission by the licensee of a contravention of—

(i) section 28(1), 29(9), 31(5), 37(1), (2), (4), (5), (6) or (7), 41(1), 43(1), (2) or (3), 44, 45(1) or (2), 55(1) or (2), 56(1), 57(1), 58(3), 59(1), 60(1), 61, or 81(1) or (2),

or

(ii) a provision of regulations made under section 46, 62 or 95,

(c) the giving by the licensee of a statement of advised market value or advised letting value of land which is clearly unreasonable;

"independent contractor" means an individual who provides a property service where—

(a) no employee of the individual provides such service on behalf of the individual, and

(b) in the case of an individual who is a partner in a partnership, no other principal officer provides such service on behalf of the individual,

and whether or not the individual engages in any other business;

"land" has the meaning assigned to it by the Land and Conveyancing Law Reform Act 2009;

[EXTRACT FROM LAND AND CONVEYANCING LAW REFORM ACT 2009]

"land" includes—

(a) any estate or interest in or over land, whether corporeal or incorporeal,

(b) mines, minerals and other substances in the substratum below the surface, whether or not owned in horizontal, vertical or other layers apart from the surface of the land,

(c) land covered by water,

(d) buildings or structures of any kind on land and any part of them,

(e) whether the division is made horizontally, vertically or in any other way,

(f) the airspace above the surface of land or above any building or structure on land which is capable of being or was previously occupied by a building or structure and any part of such airspace, whether the division is made horizontally, vertically or in any other way,

(g) any part of land;

[END EXTRACT]

"major sanction", in relation to a licensee, means—

(a) the revocation of the licence of the licensee and a prohibition (which may be a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions) against the former licensee applying for a new licence or a particular class of licence,

(b) the suspension for a specified period of the licence of the licensee or, in any case where the period of such suspension (in this paragraph referred to as "the relevant period") sought to be imposed is longer than the period of validity of the licence left to run, the suspension of the licence during that period and a prohibition for a specified period against the former licensee applying for a new licence or a particular class of new licence, which periods, added together, are equivalent to the relevant period,

(c) a direction to the licensee that the licensee pay a sum, as specified in the direction but not exceeding €50,000, into the Fund,

(d) a direction to the licensee that the licensee pay a sum, as specified in the direction but not exceeding €50,000, to the Authority, being the whole or part of the cost to the Authority of an inspection of the licensee,

(e) a direction to the licensee that the licensee pay a sum, as specified in the direction but not exceeding €250,000, to the Authority by way of a financial penalty for an act of the licensee specified in the direction, or

(f) any combination of any of the sanctions specified in paragraphs (a) to (e);

"material matter", [FROM SECTION 41 OF THE ACT] in relation to a licensee or an applicant

for a licence, includes—

(a) the imposition of conditions on any registration or licence or other authorisation, the revocation, suspension, withdrawal or removal of any registration or licence or other authorisation, or the refusal to grant registration or a licence or other authorisation, by any regulatory body in or outside the State in respect of any capacity or former capacity of the applicant or licensee, as the case may be, as a provider of—

(i) property services in or outside the State,

(ii) services relevant to the provision of such property services,

(b) any conviction for an offence (whether imposed in or outside the State) other than an offence prescribed for the purposes of this paragraph by regulations made under section 95,

(c) any proceedings pending for an offence which falls within paragraph (b), and

(d) in the case of a licensee or an applicant which or who is a body corporate or a partner in a partnership, any change in the principal officers of the body corporate or partnership, as the case may be.

[END EXTRACT]

"minor sanction", in relation to a licensee, means—

(a) the issue, to the licensee, of—

(i) advice (including advice relating to participation in a professional competence scheme),

(ii) a caution,

(iii) a warning,

(iv) a reprimand,

(b) any combination of any of the sanctions specified in paragraph (a);

"principal officer"—

(a) in relation to a body corporate, means any person who is—

(i) a director, manager, secretary or other similar officer of the body corporate, or

(ii) a person purporting to act in any such capacity, (b) in relation to a partnership—

(i) means any person who is—

(I) a partner in, or a manager or other similar officer of, the partnership, or

(II) a person purporting to act in any such capacity, and

(ii) if any partner in the partnership is both a body corporate and a licensee or an applicant for a licence, includes any person who is—

(I) a director, manager, secretary or other similar officer of such partner, and

(II) a person purporting to act in any such capacity;

"property services employer" means a person (referred to in this definition as "the employer")—

(a) who is an individual who provides a property service where an employee of the employer may also provide such service on behalf of the employer, or

(b) whose employees or principal officers provide a property service on behalf of the employer,

and whether or not the employer engages in any other business;

"relevant account" [FROM SECTION 47(2) OF THE ACT]

(a) the relevant account is an account into which charges levied under section 18 of the Multi-Unit Developments Act 2011 are paid for the purposes of a scheme referred to in that section, or

(b) the relevant account is an account into which contributions fixed under section 19 of the Multi-Unit Developments Act 2011 are paid for the purposes of a sinking fund referred to in that section.

[END EXTRACT]

"relevant price range", in relation to land valued for sale or letting by a licensee, means a price range where the difference between the upper limit of such valuation and the lower limit of such valuation is not more than 10 per cent of such lower limit;