

SEPTIC TANK REGISTRATION CHARGE
pursuant to the Water Services (Amendment) Act 2012 ("the Act")

BACKGROUND

In October 2009 the European Court of Justice (ECJ) ruled that Ireland was in breach of Waste Directive 75/1442 for not having proper legislation or administrative provisions in place to ensure that the domestic wastewater from septic tanks was disposed of in a manner which would not be a danger to human health or to the environment. The ECJ judgement required Ireland to introduce legislation to provide for the registration, monitoring and inspection of septic tanks.

In or around September 2011 the government gave us the broad brushstrokes of the proposed charge on septic tanks. There was pressure being exerted by the EU to have the legislation passed as they were threatening Ireland with a €2.7 million lump sum fine and a €26,000 fine per day for its continued breach of the ECJ judgement. The Water Services (Amendment) Act 2012 was finally passed in February 2012.

This charge has been found to be quite unpalatable, not alone because it is yet another charge on top of the Household Charge for many homeowners living outside of our towns and cities, but also because of the fear of potential repair costs that might be incurred if a septic tank was found, on inspection, to be in breach of the standards under the Act.

WHO DOES IT AFFECT?

The Septic Tank Registration Charge will affect all domestic wastewater treatment systems. Basically any property that is not connected to the main sewerage system. According to the 2006 census, a total of 418,033 houses have individual septic tanks.

The Act provides:

"domestic waste water treatment system" means a system involving physical, chemical, biological or thermal processes, or a combination of such processes, utilised for the treatment or disposal of domestic waste water, or the sludge derived from domestic waste water, and includes—

- (a) all septic tanks and waste water tanks and systems receiving, storing, treating or disposing of domestic waste water and all drains associated with such tanks or systems, and
- (b) all drains associated with the discharge of domestic waste water, whether or not they discharge to a septic tank or waste water tank;

REGISTRATION & RENEWAL

All householders with a "domestic waste water treatment system" are required under the Act to register details of their system with the Water Services Authority in their Local Authority. A national register is to be compiled and held by the EPA.

The registration scheme becomes operable on 31st March 2012. The Septic Tank Registration Charge is set at **€50**, but as an incentive to register early the Minister for the Environment has set the Charge at **€5** for registrations made in the first 3 months of the scheme.

After registration of the septic tank, the Water Services Authority concerned will issue a Certificate of Registration which shall remain valid for a period of 5 years from the date it was issued. On the expiry of the Certificate, the owner is required to renew the Certificate of Registration with the Water Services Authority concerned – it is unclear whether there will be a renewal fee at this stage.

INSPECTION

When directing a septic tank inspection to be undertaken, the Agency or the Water Services Authority concerned shall have regard to the National Inspection Plan under the Act.

The National Inspection Plan shall have regard to relevant risks or potential risks to human health and/or the environment. This would indicate that septic tank inspections would be focused on higher risk areas or where traditionally or recently there has been a risk to health or the environment.

It should be noted that the Agency can from time to time as it thinks appropriate, and at least once in each period of 5 years, review and revise the plan as it thinks fit.

If following an inspection, the owner of the property connected to the particular system / septic tank is found to have contravened the regulations under Section 70L of the Act or the system / septic tank is found to constitute a risk to human health or the environment, the following is put in motion:

1. Inspector notifies the owner immediately.
2. Inspector notifies the Water Services Authority within 21 days stating the reasons for his / her opinion.
3. Water Services Authority shall within 21 days of the notification issue an Advisory Notice to the owner. The Advisory Notice shall outline how the septic tank / system has contravened regulations, state the reasons for that opinion and shall direct the owner to remedy the specified matters by a certain date.
4. The owner can appeal the Advisory Notice to the Water Services Authority within 21 days of the date of the Notice. This shall be done in the prescribed form and with the prescribed fee, not exceeding €20 (per the Act). The Water Services Authority appoints their own 'authorised person' to reinspect the system / septic tank.
5. Within a further 10 days the authorised person shall, in writing to the owner / applicant, :
 - (a) Confirm the Advisory Notice; or
 - (b) Confirm the Advisory Notice subject to such modifications, alterations or additions as the authorised person considers appropriate; or
 - (c) Cancel the Advisory Notice
6. If the owner is aggrieved by the confirmation (or confirmation subject to modifications etc) of the authorised person, he / she may within 14 days of the date

of such confirmation appeal to a judge of the District Court in the district court district where the system / septic tank is situated.

7. In determining an appeal the district court judge may, if he/she is satisfied that it is reasonable to do so, confirm, vary or cancel the Notice.

OFFENCES & PENALTIES

70M.—(1) A person guilty of an offence under section 70B(12), 70C(2), 70E(10), 70G(5), 70H(18), or 70L(2) is liable, on summary conviction, to a class A fine - (MAX €5,000)

I AM BUYING / I AM SELLING?

Sale of premises connected to domestic waste water treatment systems.

Section 70D of the Act

(1) A person who, on or after the prescribed date, sells a premises connected to a domestic waste water treatment system, shall on the completion of the sale, furnish a valid certificate of registration in respect of the treatment system concerned to the purchaser of the premises.

(2) A purchaser of a premises connected to a domestic waste water treatment system shall, after the completion of the sale, notify the relevant water services authority of the change in ownership and the water services authority concerned shall update the register of domestic waste water treatment systems accordingly.

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UPDATE – 27/6/12

SEPTIC TANK REGISTRATION HAS NOW OPENED

REGISTRATION HAS NOW OPENED for owners of septic tanks. Owners of domestic wastewater treatment systems are now required to register their systems.

Registration

The forms can be picked up from local authority offices; public libraries and citizen information centres. You can also access one by phoning Protect Our Water on Lo-Call 1890 800 800 or visiting www.protectourwater.ie

The registration fee, which is described as "modest" is €5 for the first three months of registration, until 28 September 2012. After this date, a €50 fee applies, and this must be paid on or before 1 February 2013.

This fee covers the costs of administration by the water services authorities and risk-based inspections. There will be no charge for inspections of the septic tanks.

Delay

There was a delay in beginning registration, despite government insistence that the legislation underpinning the charge was urgently needed in order to avoid fines resulting from a ruling of the European Court of Justice.

If you have any questions in relation to any of the above, please contact McCullagh Higgins & Co. Solicitors

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