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Real Estate 2025

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1 Real Estate Law

1.1 Please briefly describe the main laws that govern real estate in your jurisdiction. Laws relating to leases of business premises should be listed in response to question 10.1. Those relating to zoning and environmental should be listed in response to question 12.1. Those relating to tax should be listed in response to questions in section 9.

The principal legislation governing Irish real estate is as follows:

- Land and Conveyancing Law Reform Act 2009.
- Land and Conveyancing Law Reform Act 2021.
- Land and Conveyancing Law Reform Act 2013 (as amended by Land and Conveyancing Law Reform (Amendment) Act 2019).
- Registration of Deeds and Title Acts 1964 and 2006 (as amended by Land and Conveyancing Law Reform Act 2009).
- Landlord and Tenant (Ground Rents) Act 1978.
- Landlord and Tenant (Ground Rents) (No. 2) Act 1978.
- Housing Acts 1996 to 2021.
- Land Development Agency Act 2021.
- Planning and Development Acts 2000 to 2023.
- Planning and Development Act 2024 (not yet substantially commenced – anticipated to substantially commence in stages from 2025).
- Building Control Acts 1990 to 2020.
- Succession Act 1965.
- Multi-Unit Developments Act 2011.
- Residential Tenancies Acts 2004 to 2024 ("RT Acts").
- Local Government Reform Act 2014.
- National Asset Management Agency Act 2009.
- The Property Services (Regulation) Act 2011.
- Conveyancing Acts 1881–1911 (as amended, supplemented or replaced by Land and Conveyancing Law Reform Act 2009).
- Statute of Frauds (Ireland) Act 1695.
- Settled Land Acts 1882–1890 (as amended, supplemented or replaced by Land and Conveyancing Law Reform Act 2009).
- Vendor and Purchaser Act 1874.
- Partition Acts 1868 and 1876 (as amended, supplemented or replaced by Land and Conveyancing Law Reform Act 2009).
- Local Government Rates and Other Matters Act 2019.
- Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023.
- Screening of Third Country Transactions Act 2023 (not yet commenced – anticipated to commence early 2025).

1.2 What is the impact (if any) on real estate of local common law in your jurisdiction?

Irish property law is based on both common law and statute law. As UK law is also based on common law, judgments made in the UK courts have persuasive authority in the Irish courts but are not binding.

1.3 Are international laws relevant to real estate in your jurisdiction? Please ignore EU legislation enacted locally in EU countries.

There are no international laws of direct relevance to real estate in Ireland, though anti-money laundering legislation will apply to particular transactions as will EU sanctions. However, decisions made in other common law jurisdictions would have persuasive authority in our judicial system.

2 Ownership

2.1 Are there legal restrictions on ownership of real estate by particular classes of persons (e.g. non-resident persons)?

There are no direct legal restrictions on ownership of real estate for non-resident persons in Ireland. However, on commencement (expected to commence early January 2025) of the Screening of Third Country Transactions Act 2023, investment in certain Irish undertakings or assets (including real estate assets) by persons or entities from "third countries" (being countries other than Ireland, the EU, the EEA or Switzerland) will be subject to a screening regime under that Act to ensure that the investment does not present risks to the security or public order of the State.

3 Real Estate Rights

3.1 What are the types of rights over land recognised in your jurisdiction? Are any of them purely contractual between the parties?

Legal estates and interests in land

The only legal estates in land that may be created or disposed of are freehold and leasehold estates. A freehold estate is closest

to absolute ownership and has the potential to last forever. Leasehold estates are lesser estates than freehold estates and they occur where a tenant holds the property for a term of years, subject to rent and other covenants. Leasehold interests in Ireland are based in contract rather than in tenure.

Legal interests that may be created or disposed of are similarly limited in law and include easements, wayleaves, incumbrances (including mortgages and charges), *profits á prendre* (including mining rights), freehold covenants, and certain public and statutory rights.

The strict legal position on the acquisition of estates and interests in land is, however, tempered by the law of equity, so that equitable rights and interests based on justice, including the beneficial ownership of land, arise and are recognised and upheld.

Contractual rights

In addition to legal estates and interests, rights over and in respect of land can be created and enjoyed by contract between the parties. The most commonly enjoyed contractual rights would be licences to use or occupy and options to buy. Rights of this nature are enjoyed on the terms of the contract themselves and do not create rights in the land, but courts will give effect to the substance of a contract over its form, so that, for example, a contract purporting to be a licence, which has all the characteristics of a lease, may be upheld by a court as a lease, if challenged.

3.2 Are there any scenarios where the right to land diverges from the right to a building constructed thereon?

Under Section 3 Land and Conveyancing Law Reform Act 2009 "land" is defined as including "buildings and other structures of any kind on land and any part of them", but the freehold owner of land may dispose of the valuable interest in the land and/or any buildings on it by granting a long lease of the land and/or buildings. In this way the owner of the land may be different to the owner of the buildings on it. An owner may also enter into development agreements, building licences and other contractual arrangements for the construction of buildings on land, which will govern the rights of the parties to the buildings once constructed.

3.3 Is there a split between legal title and beneficial title in your jurisdiction and what are the registration consequences of any split? Are there any proposals to change this?

Yes, both legal and beneficial title is recognised in Ireland. For titles registered in the Land Registry, the legal owner is the person registered as owner on the Land Registry folio. Where the title is not registered in the Land Registry, the legal owner is the person to whom the legal title is conveyed by deed, registered in the Registry of Deeds. A beneficial interest typically arises where the legal owner is holding the asset in whole or in part in trust for the beneficial owner. If both interests subsist then it is the beneficial interest that is deemed the significant interest in the real estate asset. If there is a split, the practice is to register the legal owner who holds the title as nominee in trust for the beneficial owner. There are no proposals to change this at present. See question 4.6 below for the passing of beneficial interest on signing of an enforceable contract.

4 System of Registration

4.1 Is all land in your jurisdiction required to be registered? What land (or rights) are unregistered?

There are two registration systems for property ownership in Ireland overseen by Tailte Éireann: one administered by the Land Registry; and one by the Registry of Deeds. Registration in the Land Registry is intended to provide conclusive evidence as to the ownership of and title to the property registered there, whereas registration at the Registry of Deeds records relevant deeds and determines their priority (both as against other registered and unregistered deeds).

If it has not already been done, all sales of land are now subject to an obligation for the title to be registered in the Land Registry. For land, the title to which is registered or compulsorily registered in the Land Registry, title does not technically pass until registration is complete.

4.2 Is there a state guarantee of title? What does it guarantee?

Titles registered in the Land Registry are guaranteed by the State. The register in the Land Registry is conclusive as to title and buyers or chargees for value are protected against errors or mistakes made by authority officials.

There is no State guarantee in respect of any deed registered in the Registry of Deeds.

4.3 What rights in land are compulsorily registrable? What (if any) is the consequence of non-registration?

For titles registered in the Land Registry, all registrable burdens (including rights of residence, restrictive covenants and leases exceeding 21 years) must be registered in the Land Registry to gain protection, otherwise these rights will not be protected against a *bona fide* buyer for value without notice.

Registration in the Registry of Deeds, whether for deeds transferring title or granting rights, is not compulsory but where the title is not already registered in the Land Registry, it is necessary to both preserve priority and ensure that third parties are on notice of ownership and other rights. Registration is, therefore, always carried out in practice.

4.4 What rights in land are not required to be registered?

While, in principle, for titles registered in the Land Registry, the folio provides conclusive evidence as to the title registered, there are also certain rights (referred to as section 72 burdens), which affect the title without registration (including certain public rights, tenancies of 21 years or less where the tenant is in occupation and easements and *profits á prendre* unless created by express grant since the title was registered in the Land Registry). See the answer to question 4.3 above for titles registered in the Registry of Deeds.

4.5 Where there are both unregistered and registered land or rights is there a probationary period following first registration or are there perhaps different classes or qualities of title on first registration? Please give details. First registration means the occasion upon which unregistered land or rights are first registered in the registries.

There is no probationary period following first registration. An applicant may be registered in the Land Registry with one of the following classes of title:

- Absolute title: this is the best type of title and is the most common.
- Qualified title: if the applicant can only establish title for a limited period or where the title is subject to particular reservations, then the Registrar may register a qualified title.
- Possessory title: where an applicant is in occupation of the land or in receipt of the rents and profits issuing out of the land, then they may be registered with possessory title.
- Good leasehold title: this would apply where the Land Registry has not investigated the title of the landlord. Where the landlord's title is registered then the tenant will be registered with absolute leasehold title.

4.6 On a land sale, when is title (or ownership) transferred to the buyer?

Where title is registered or compulsorily registrable in the Land Registry, title does not technically pass until registration is complete. In the limited circumstances where this does not apply, legal title passes when the purchase money is paid to the seller and the buyer takes delivery of the deed.

Unless disapplied in the contract for sale, the application of section 52 of the Land and Conveyancing Law Reform Act 2009 means that the entire beneficial interest in the real property that is the subject of the contract passes to the buyer on the making of an enforceable contract for the sale or other disposition of land.

4.7 Please briefly describe how some rights obtain priority over other rights. Do earlier rights defeat later rights?

The general law relating to priorities as between successive estates or interests in land is based on the equitable doctrine of notice, but this has a more limited role in Irish conveyancing practice since the introduction of specific legislation governing the priority of rights where the title is registered in the Land Registry and also where it is not. It is not necessarily the case that earlier rights will have priority over later rights.

In principle:

- where title is registered in the Land Registry, priority is governed by the order on which the burden appears on the relevant part of the folio; and
- where the title is not registered in the Land Registry:
  - if both deeds are registered in the Registry of Deeds, the timing of registration of the deed creating the right, as opposed to the date of the deed itself, is determinative; the rights in the first registered deed will have priority;
  - if only one of the deeds is registered, the rights in the registered deed will have priority; and
  - if neither of the deeds is registered, the rights created first will have priority.

Importantly, further statutory provisions mean that:

- these general principles do not apply to determine the priority of judgment mortgages: a judgment mortgage is subject to any right or incumbrance affecting the judgment debtor's land, whether registered or not;
- a legal chargeholder may enforce its security and transfer title to a buyer free of rights that rank in priority below the charge;
- a *bona fide* purchaser for value without notice of rights will take the land free of those rights if all reasonable enquiries have been made by the buyer and their lawyer as part of the due diligence process; and
- in certain circumstances, a buyer of a legal estate in land will take title free of equitable interests in the land whether they are on notice of those rights or not.

5 The Registry / Registries

5.1 How many land registries operate in your jurisdiction? If more than one please specify their differing rules and requirements.

Please see questions 4.1–4.7 above.

5.2 How do the owners of registered real estate prove their title?

For titles registered in the Land Registry, a certified copy folio and filed plan showing the owner as the registered owner is proof of their title. Where the title is not registered in the Land Registry, a deed for value to the owner and, where this is less than 15 years old, or not otherwise a "good root" of title, a further deed for value of 15 years or more, is required to prove the owner's title. For leasehold titles, the lease itself is always the root of a leasehold title together with any assignment to the owner and, ideally but not necessarily, supported by evidence of the freehold owner's title to grant the lease. Where a title is subject to or has the benefit of rights and interests, these will also need to be shown.

5.3 Can any transaction relating to registered real estate be completed electronically? What documents need to be provided to the land registry for the registration of ownership right? Can information on ownership of registered real estate be accessed electronically?

While applications for registration with the Land Registry may initially be made electronically so as to result in a corresponding dealing number, subject to very limited exception only, the actual documents the subject of any application to either the Land Registry or the Registry of Deeds must all be signed or executed in "wet-ink" and be physically lodged with the Land Registry. Limited exceptions to this apply for registration of certain charges (residential only) and discharges (subject to conditions) in the Land Registry.

Applications made to either the Land Registry or the Registry of Deeds will include an application form in the prescribed form for the Registry and the application made (in the Land Registry this will always include a Form 17), the relevant deed or deeds, and the appropriate fees.

The Land Registry and the Registry of Deeds are public registries so that searches can be conducted by anyone who pays a prescribed fee. Land Direct, the official Tailte Éireann

Registration Division online service, allows users to search the Land Registry map and view and order title documents online at https://www.landdirect.ie

5.4 Can compensation be claimed from the registry/registries if it/they make a mistake?

Compensation can be claimed from the Land Registry but not from the Registry of Deeds (see question 4.2 above).

5.5 Are there restrictions on public access to the register? Can a buyer obtain all the information he might reasonably need regarding encumbrances and other rights affecting real estate and is this achieved by a search of the register? If not, what additional information/process is required?

Any member of the public is entitled to search the Registry of Deeds records on payment of the prescribed fee.

In the Land Registry, members of the public can inspect search and view folios and filed plans, again on payment of the prescribed fee, but applications pending registration may only be inspected by the applicant or registered owner or other prescribed category of persons or a person authorised by those persons.

Neither the Land Registry nor the Registry of Deed will disclose unregistered rights. As the potential for unregistered rights exists in both systems, in addition to public registry searches, anyone acquiring an estate, right or interest in land, including buyers, lenders and tenants, must engage in a due-diligence process involving inspection and legal enquiry to be fully satisfied regarding encumbrances and rights affecting it.

6 Real Estate Market

6.1 Which parties (in addition to the buyer and seller and the buyer's finance provider) would normally be involved in a real estate transaction in your jurisdiction? Please briefly describe their roles and/or duties.

(a) Estate agents

An estate agent advises on the market or rental value of the property and advertises the property for sale and/or letting. Estate agents will also act for both landlords and tenants to negotiate and agree heads of terms for commercial lettings.

(b) Lawyers

A seller's lawyer is responsible for drafting contracts, dealing with pre-contract enquiries raised by the buyer's lawyers, replying to requisitions on title, redeeming mortgages/charges and distributing the balance of sale proceeds to the seller.

A buyer's lawyer investigates the title, explains the title and loan offer to the buyer, completes the mortgage documentation, raises requisitions on the title, drafts the purchase deed, requisitions the loan amount, conducts closing searches, attends the closing appointment and stamps and registers the title.

(c) Notaries

Our common law system enables documentation to be sworn/affirmed in the presence of an independent practising solicitor, commissioner for oaths or peace commissioner. The assistance of a notary public to attest or certify documents may be required for documents to be accepted for use in another jurisdiction, but not otherwise.

(d) Others

Buyers will engage surveyors/architects before signing contracts to carry out a structural survey of the property to ascertain its state and condition, conduct a boundary survey and/or verify compliance with planning and building regulations and title plans produced by the seller.

A seller/landlord will engage an architect or mapping expert to produce a title plan for title registration purposes, where this is required, and will engage a building energy rating ("BER") assessor to prepare a BER certificate and advisory report in relation to a building being sold or let (see question 10.7 below).

A requirement for other experts, including environmental experts, will depend on the nature of the transaction.

6.2 Is there any change in the sources or the availability of capital to finance real estate transactions in your jurisdiction, whether equity or debt? What are the main sources of capital you see active in your market?

Debt is the predominant source of capital for real estate in Ireland, particularly for established participants. New entrants are likely to obtain funding through equity financing. The cost of borrowing and investors' ability to use debt and compete competitively in a bidding process are likely to result in a higher number of deals completing on an all-equity basis.

Sources of capital to finance real estate transactions have broadened, with the traditional or "pillar" banks including Bank of Ireland and Allied Irish Banks, p.l.c., being joined by a number of alternative and non-bank lenders.

Development finance for residential projects specifically is also available through Home Building Finance Ireland ("HBFI") and the Housing Finance Agency ("HFA"). HBFI was set up by the Government in 2018 to provide funding at market rates for commercially viable residential developments in the State, which meet HBFI's funding criteria. The HFA provides loan finance to local authorities, voluntary housing bodies and higher education institutions for housing and related purposes. The State also supports development and investment in social and affordable housing, particularly through State equity schemes administered by the Housing Agency.

6.3 In your opinion, what is the appetite for investors and/or developers to invest in your region compared to last year and what are the sectors/areas of most interest? Please give examples.

The year 2024 continued to be challenging for the Irish commercial real estate market, notwithstanding three European Central Bank ("ECB") interest rate cuts this year and another cut forecast for 12 December 2024. In the Eurozone, Ireland has the sixth highest interest rate. It is expected that these ECB interest rate cuts will cause a knock-on reduction of interest rates in Ireland; this will very much depend on the wider economy and what happens in the European economy.

Inflation and rising costs appear to be stabilising and it is hoped this will encourage and strengthen the confidence of developers and investors to invest. The office sector is still feeling the implications of a hybrid work environment following the COVID-19 pandemic, with occupiers continuing to monitor and streamline their commercial office space requirements. However, residential development continues strongly and the retail, industrial and hospitality sectors all

continue to perform well. Budget 2025 increased the national minimum wage by over 6% to €13.50. Some might argue that this increase was ill-timed as the retail and hospitality sectors continue to face increased cost pressure, and many see this change as adversely impacting small and medium-sized businesses.

Budget 2025 also allocated capital of €1.25billion to the Land Development Agency and this envisages the continued delivery of substantial levels of social and affordable housing. Budget 2025 also allocated capital into infrastructure, which should benefit both the commercial and residential markets in Ireland in 2025.

6.4 In your opinion, have there been any trends in particular market sub sectors slowing down in your jurisdiction in terms of their attractiveness to investors/developers? Please give examples.

Please see the response to question 6.3 above.

7 Liabilities of Buyers and Sellers in Real Estate Transactions

7.1 What (if any) are the minimum formalities for the sale and purchase of real estate?

A buyer/seller must have the legal capacity to execute a contract for the sale/purchase of real estate, i.e. they must be over 18 and of sound disposing mind. Otherwise, a contract for the sale of land or grant of a lease in Ireland must be evidenced in writing and signed by or on behalf of the party against whom it is to be enforced (except where the justice of the case, on the basis of established equitable principles, demands otherwise). While the General Conditions of Sale 2023 (Revised) Edition issued by the Law Society of Ireland are almost universally adopted for sales (subject to amendment and negotiation), by law contracts do not have to be a single document or take a particular form, so that care must be taken to avoid unwittingly creating a binding obligation (for sale, purchase or lease) by exchange of correspondence, whether by letter, fax, email or other written communication or document.

7.2 Is the seller under a duty of disclosure? What matters must be disclosed?

The principle of "buyer beware" generally applies, so that buyers and tenants take property "as is" and in its actual condition. While under the Law Society General Conditions of Sale 2023 (Revised) Edition a seller has a duty to disclose notices received prior to the sale and any rights or restrictions affecting the property not apparent from inspection, in general law there is no requirement on the owner to ensure that it is free from defects or to disclose anything that is apparent from inspection.

7.3 Can the seller be liable to the buyer for misrepresentation?

Yes, a seller can be liable for misrepresentation. General Condition 29 of the Law Society General Conditions of sale makes specific provision for this but whether and how this applies will depend on whether and how this condition is agreed to apply to a transaction.

7.4 Do sellers usually give any form of title "guarantee" or contractual warranties to the buyer? What would be the scope of these? What is the function of any such guarantee or warranties (e.g. to apportion risk, to give information)? Would any such guarantee or warranties act as a substitute for the buyer carrying out his own diligence?

As above, the principle of "buyer beware" applies so that sellers do not give any title guarantee and give very limited warranties. General Condition 32 of the Law Society General Conditions of sale makes specific provision for a seller warranty as to compliance with planning and building regulations, but this is often limited or disapplied altogether for transactions other than for residential sales to consumers.

7.5 Does the seller retain any liabilities in respect of the property post sale? Please give details.

While any liabilities retained will depend on what is agreed for the transaction itself, a seller does not generally retain any liabilities for a property post-sale, other than an obligation to address mapping queries on the buyer's title registration.

7.6 What (if any) are the liabilities of the buyer (in addition to paying the sale price)?

The buyer will be responsible for discharging the stamp duty on the purchase deed, their title registration fees and the fees and outlay of the professionals engaged by them for transaction.

8 Finance and Banking

8.1 Please briefly describe any regulations concerning the lending of money to finance real estate. Are the rules different as between resident and non-resident persons and/or between individual persons and corporate entities?

Irish law does not specifically distinguish between the lending of money to finance real estate and the lending of money to finance other assets. The principal dividing line with regard to the application of financial services regulatory requirements is whether the money is being lent to an individual person or a corporate entity.

Lending to corporate entities, which is the typical fact pattern in the context of commercial real estate, does not in itself require the lender to hold a regulatory authorisation. The lender may, however, be subject to a number of generally applicable regulatory obligations under Irish law (e.g. in relation to anti-money laundering/know-your-client compliance and credit reporting). In the case of a purchase of an existing loan to a corporate entity it is possible that:

(a) regulatory authorisation as a "credit servicing firm" would be required. That requirement would only arise where certain criteria are met, including that the original lender held an authorisation to provide credit in Ireland (e.g. a bank) and the borrower was categorised as a small and medium-sized enterprise (an "SME"); and/or

(b) the appointment of a duly authorised "credit servicer" would be required. This requirement stems from an EU-wide regime on credit purchasers and servicers and only arises in limited circumstances, including where

the loan was originated by an EU "credit institution" (usually a bank) and classified as a "non-performing exposure".

Lending to individuals will almost always require the lender to hold an authorisation from the Central Bank of Ireland (e.g. as a credit institution or a retail credit firm) or to passport a valid authorisation from an equivalent EEA regulatory authority into Ireland. Authorised lenders are subject to an extensive range of supervisory and regulatory requirements that govern prudential and conduct of business matters. Some noteworthy examples relevant to real estate financing include the:

- Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-sized Enterprises) Regulations 2015;
- Consumer Protection Code 2012;
- Code of Conduct on Mortgage Arrears;
- Consumer Credit Act 1995; and
- Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Housing Loan Requirements) Regulations 2022,

each as amended and supplemented from time to time.

Whether the borrower is resident in Ireland or not is of limited relevance in the context of a commercial real estate loan to a corporate entity. It would not affect the question of whether the lender required a regulatory authorisation to provide the loan but could have an impact on the scope of compliance requirements (particularly in relation to credit reporting).

For real estate loans to a natural person, the residence question would require closer analysis on a transaction-by-transaction basis and may give rise to complex questions regarding conflict of laws and the appropriate financial services regulatory regime to be applied.

The taking of security over real estate is unlikely, as a matter of Irish law, to be affected by the residence of the security-provider. The question of whether the security-provider is a body corporate or an individual would, however, impact on the statutory treatment of the security (including the taking, registration and enforcement of the security).

Finally, non-EU banks should be aware that authorisation requirements for the provision of certain core banking activities (including lending) are being changed at an EU level with a consequent impact in Ireland in due course. Broadly summarised, under the "CRD VI" Directive ((EU) 2024/1619), there will be an EU-wide requirement for a non-EU bank that wishes to engage in core banking activities in an EU Member State to establish a duly authorised branch in that Member State. CRD VI is due to be transposed into Irish law by 10 January 2026, with the majority of the measures relevant to this new branch requirement applicable from 11 January 2027. Consequently, non-EU banks doing business in Ireland (or the EU more broadly) should consider the cost-benefit analysis of obtaining authorisation (either as a branch or an EU bank) and/or explore alternative structuring options.

8.2 What are the main methods by which a real estate lender seeks to protect itself from default by the borrower?

A real estate lender protects itself by taking security in the form of a first-ranking charge against the property in the Registry of Deeds or Land Registry, as applicable (see section 4 above).

8.3 What are the common proceedings for realisation of mortgaged properties? Are there any options for a mortgagee to realise a mortgaged property without involving court proceedings or the contribution of the mortgagor?

The most common method of realising security against commercial real estate is the appointment of a receiver, which, except for "housing loan mortgages", is typically done without the requirement for court proceedings. In the case of a "housing loan mortgage", the appointment of a receiver may only be done following a court order. In addition, there are further specific statutory and regulatory requirements to be complied with when enforcing security against a family home.

8.4 What minimum formalities are required for real estate lending?

Lenders will only typically lend in return for security over the property in the form of a charge by deed. Where title to the property being charged is registered in the Land Registry, a specific form of charge must also be executed in accordance with Land Registration Rules in either Form 51 or 52. Where a foreign entity is granting the security, execution of both the charge and the relevant Land Registry form should be in compliance with the law governing execution by the foreign entity, supported by a legal opinion in a prescribed form from a lawyer authorised to practice in the relevant jurisdiction, confirming that the documents have been duly executed by the foreign entity.

8.5 How is a real estate lender protected from claims against the borrower or the real estate asset by other creditors?

The real estate lender will require that their charge takes priority over any other creditors, with the exception of statutory creditors, and to achieve that will ensure that the charge be registered when the borrower is registering its title to the asset.

8.6 Under what circumstances can security taken by a lender be avoided or rendered unenforceable?

Charges over the assets of a company must be registered in the Irish Companies Office. Failure to register the charge within 21 days will render the charge void.

The insolvency of any person or company within a certain period of security being granted to a lender, may also result in the security being avoided. In particular, and except where new funds are advanced at the time, a floating charge created by a company within the 12 months before the commencement of the winding up of the company will be invalid unless it is proven that the company was solvent immediately after the creation of the charge.

If a charge was granted with the intention to defraud another or to fraudulently prefer the lender, this would also be at risk of being avoided; however, this should not be an issue for lenders who advance funds in good faith and are not on notice of the fraud, having carried out the appropriate due diligence.

8.7 What actions, if any, can a borrower take to frustrate enforcement action by a lender?

Examinership is a rescue procedure for a company that is, or is likely to become, unable to pay its debts as they fall due. The

process comprises three main components: new investment into the company; a forced write down of the company's liabilities; and a comprehensive legal stay that prevents any enforcement action being taken against the company for the duration of the process. The examiner has a maximum period of up to 100 days to lodge their proposals for a scheme of arrangement in Court. During this "protection period", no proceedings may be commenced in relation to the company and a secured creditor cannot take any action to enforce its security. A court also has the power to remove any receiver (which is the main method by which a secured creditor enforces their security in this jurisdiction) who has stood appointed for less than three days as at the date of the petition for examinership.

The Small Company Administrative Rescue Process ("SCARP") is similar to examinership but exclusively available to small and micro companies.

For individuals, a protective certificate issued by the Court under the Personal Insolvency Act 2012 offers protection to the applicant's assets from legal proceedings by creditors while the applicant is applying for a personal insolvency arrangement ("PIA") or Debt Settlement Arrangement ("DSA") under that Act.

8.8 What is the impact of an insolvency process or a corporate rehabilitation process on the position of a real estate lender?

An insolvency event suffered by a debtor is very likely to trigger a right on the part of a lender to take enforcement action but the actions and/or timing of the actions taken by the lender will depend on any insolvency process commenced by the debtor. See question 8.7 for the impact of examinership, SCARP and PIAs on the position of the real estate lender. In addition, preferential creditors (comprising mainly employee and tax claims) will rank ahead of any floating charge granted by a company.

8.9 What is the process for enforcing security over shares? Does a lender have a right to appropriate shares in a borrower given as collateral? If so, can shares be appropriated when a borrower is in administration or has entered another insolvency or reorganisation procedure?

Determining the value of the shares is important to any enforcement strategy, including appropriation, which is not a common feature in the Irish market.

A lender can seek to take control of a borrower by appointing a receiver to the member's shares. The usual sequence of events will be to:

(a) serve a written demand on the borrower (the facilities should be on demand or there should be an existing event of default);
(b) afford the borrower a reasonable opportunity to satisfy the demand following receipt (usually 24 hours); and
(c) execute a deed of appointment of receiver.

A receiver appointed to the shares would be able to appoint new directors to the board and remove existing directors by passing various resolutions. The appointment of a receiver to shares does not involve a transfer of the shares. Instead, the receiver simply steps into the shoes of the member and can exercise all shareholder voting rights as receiver and agent of the member. The shares can, in certain circumstances, be transferred to the lender or to its nominee. However, the receiver is obliged to take all reasonable care to obtain the best price reasonably obtainable for the property the subject of the security at the time of its sale.

The lender as mortgagee will also typically have a power of sale under the security document or statute and can sell the shares and use the proceeds to fulfil the security.

As set out above, during the course of an examinership, no enforcement action can be taken by a lender. However, in the case of liquidation, a lender can typically enforce its security at any stage before, during or following the appointment of a liquidator.

9 Tax

9.1 Are transfers of real estate subject to a transfer tax? How much? Who is liable?

Stamp duty is payable by the buyer on instruments transferring ownership of property. The current standard rates of stamp duty applying on the acquisition of residential property are:

- 1% stamp duty: property value below €1million.
- 2% stamp duty: property value €1million to €1.5million.
- 6% stamp duty: property value over €1.5million.

A higher rate of 15% applies where a person acquires 10 or more residential properties (other than apartments) in any 12-month period.

The sale of three or more apartments in an apartment block will continue to be subject to stamp duty at a rate of 1% on the first €1million and 2% thereafter (with the new 6% rate not applying to those apartment sales).

For non-residential property, a rate of 7.5% applies.

Stamp duty is chargeable in accordance with the Stamp Duties Consolidation Act 1999 (as amended). The Revenue website https://www.revenue.ie contains more detailed and helpful information on stamp duty and other relevant taxes and duties.

9.2 When is the transfer tax paid?

Stamp duty is due and payable within 30 days after the instrument is executed, after which penalties and interest apply.

9.3 Are transfers of real estate by individuals subject to income tax?

Where the disposal of a particular property by an individual is not done as part of a trade, then that disposal will not be liable to Income Tax, but Capital Gains Tax ("CGT") may be payable on any gain element.

9.4 Are transfers of real estate subject to VAT? How much? Who is liable? Are there any exemptions?

VAT is chargeable on real estate and other supplies and services in accordance with the Value-Added Tax Consolidation Act 2010 (as amended). Where real estate is regarded as "new", VAT will generally arise on the sale at a rate of 13.5% on the purchase price. Where properties are not "new", they are typically exempt from VAT but with an option in favour of the seller to charge VAT on the sale. Where VAT applies on the transfer, VAT must be charged by the seller and furnished to the Revenue or self-accounted for by the buyer. There are many variations and exemptions under the VAT system, including the Capital Goods Scheme by which a trader's VAT deduction in respect of a property is tied into the use to which that property is put over its VAT-able life. If a buyer is registered for VAT,

the VAT may, in most circumstances, be reclaimed so that it is not a transaction cost.

9.5 What other tax or taxes (if any) are payable by the seller on the disposal of a property?

CGT, as defined in question 9.3 above, charged in accordance with the Taxes Consolidation Act 1997 (as amended), arises on the disposal of a wide range of assets, including real estate. The gain is calculated by deducting from the consideration received for the asset, the cost of acquisition and any expenditure incurred on its enhancement or disposal. In 2024, the rate of CGT is 33% for gains on disposals.

If the seller is a company carrying on a trade in real estate, the gain can be subject to Corporation Tax instead of CGT. There is an obligation on a buyer to withhold tax at 15% from the consideration paid for Irish land or shares deriving their value or the greater part of their value from Irish land where the consideration exceeds €500,000, unless the seller produces a CGT clearance certificate.

9.6 Is taxation different if ownership of a company (or other entity) owning real estate is transferred?

Yes; for example, the rate of stamp duty on an instrument transferring shares is 1%.

9.7 Are there any tax issues that a buyer of real estate should always take into consideration/conduct due diligence on?

- Stamp duty payable.
- VAT chargeable and agreement to pay or self-account.
- Requirement for CGT clearance certificate.
- Application of vacant site levy/residential zoned land tax.
- Application of Local Property Tax ("LPT") and/or Vacant Homes Tax ("VHT") if the property is residential.
- Not technically a tax, but commercial rates are also an important consideration.

10 Leases of Business Premises

10.1 Please briefly describe the main laws that regulate leases of business premises.

The main laws that regulate leases of business premises are as follows:

- Landlord & Tenant Law Amendment Act 1860 ("Deasy's" Act).
- Landlord and Tenant Acts 1967 to 2019.
- Land and Conveyancing Law Reform Act 2009.
- Property Services (Regulation) Act 2011.

10.2 What types of business lease exist?

There is no standard form of business lease in Ireland, but leases will generally range between the following two types:

- Short-term temporary convenience letting for a term of up to four years and nine months (see question 10.3 below) with limited repair obligations for the tenant and in respect of which no rights of renewal accrue to the tenant.
- Full repairing and insuring ("FRI") leases for terms of 10–20 years, where the tenant takes on full responsibility for the costs of the building or their portion of it including repair/costs of repair.

The Property Services (Regulation) Act 2011 requires commercial tenants to provide the Property Services Regulatory Authority ("PSRA") with certain details of the letting when granted and to update the register on the occurrence of certain events, including any review of the rent and on lease termination.

10.3 What are the typical provisions for leases of business premises in your jurisdiction regarding: (a) length of term; (b) rent increases; (c) tenant's right to sell or sub-lease; (d) insurance; (e) (i) change of control of the tenant; and (ii) transfer of lease as a result of a corporate restructuring (e.g. merger); and (f) repairs?

(a) Length of term
Short-term leases of up to 10 years are increasingly common. Where longer leases of between 10 and 20 years are granted, these will mostly contain a tenant's option to break after five or 10 years.

(b) Rent increases
Typically, rent reviews are provided for in the lease to take place every five years. For leases agreed and/or granted since 1 December 2009, the law requires any contractual provision requiring the review to be upwards only to be interpreted by the courts as allowing for upwards and downwards review. Disputes as to rent review are also governed by the lease, which will typically provide for an independent surveyor acting as an arbitrator or expert to determine the dispute.

(c) Tenant's right to sell or sub-lease
While, typically, the lease will place restrictions on a tenant's right to assign or sub-let, the law requires any such restriction on the assignment or sub-letting of an entire demised premises to be interpreted by the courts as being subject to landlord's consent, which must not be unreasonably withheld.

(d) Insurance
Typically, a landlord insures the property against damage by fire and other such risks and also against property owner's liability and recoups the cost from the tenant. Insurance against loss of rent for three or four years is also usually included and the lease will provide for the rent to be suspended for the insured period if the property becomes unusable due to an insured risk. The landlord would usually have an obligation to reinstate unless the cover was invalidated by some act of the tenant, but if reinstatement was not possible within the period of loss of rent cover, either party would usually have the right to terminate the lease.

Tenants procure and pay for their own public liability, employer's liability and contents insurance.

(e) (i) Change of control of the tenant
There are not normally any restrictions on the change of control of the tenant.

(e) (ii) Transfer of lease as a result of a corporate restructuring (e.g. merger)
Leases do not typically specifically address transfers to group companies, unless a parent company guarantee is provided,

or transfers as a result of a corporate restructuring such as a merger by absorption. Unless specifically addressed in any given lease, the general position that any transfer is subject to the landlord's consent, and the landlord cannot unreasonably withhold their consent, will apply.

(f) Repairs

Tenants who lease an entire building will be directly liable for repairs. Tenants who lease part of a building will pay a proportionate part of the cost of repairing the building through the building service charge.

Landlords will seek to impose as extensive a repairing obligation as possible onto a tenant. Limitations to repair obligations (and service charge contributions towards capital repairs) in particular are increasingly sought by tenants depending on their long-term interest in the building among other factors, typically:

(a) the length of the lease term;
(b) whether the tenant will have any statutory or contractual rights to renew;
(c) if the property is newly built, the availability (and acceptability) of collateral warranties; and
(d) if the property is second hand, the length of time left to run on any available collateral warranties and/or the current state of repair and condition of the property.

10.4 What taxes are payable on rent either by the landlord or tenant of a business lease?

Stamp duty is chargeable on business leases not exceeding 35 years at a current rate of 1% of the average annual rent, plus €12.50 for the rent review clause and €12.50 for the landlord's counterpart. For leases with a term of between 35 years and 100 years the rate is 6% and for leases with a term over 100 years the rate is 12%. The tenant is primarily liable for the stamp duty.

If the landlord opts to tax the rent, VAT will be payable by the tenant at a rate of 23% on all rental payments.

Income Tax/Corporation Tax will be payable by the landlord on rental income. Where the rent is payable to a non-resident landlord, the tenant will have an obligation to withhold tax from the payment unless an Irish resident agent is appointed to collect the rent.

10.5 In what circumstances are business leases usually terminated (e.g. at expiry, on default, by either party etc.)? Are there any special provisions allowing a tenant to extend or renew the lease or for either party to be compensated by the other for any reason on termination?

Business leases may be terminated by:

- expiry of the term;
- exercise by either party of a break clause;
- agreed surrender; or
- forfeiture following breach by the tenant.

Business tenants in occupation of a "tenement" may have statutory rights to renewal or compensation if they can claim either:

- a business equity, i.e. where a tenant has been in occupation and carried on business continuously for at least five years;
- a long possession equity; or
- an improvements equity.

Landlords often require tenants entitled to a business equity to renounce their statutory renewal rights by a formal Deed of Renunciation.

10.6 Does the landlord and/or the tenant of a business lease cease to be liable for their respective obligations under the lease once they have sold their interest? Can they be responsible after the sale in respect of pre-sale non-compliance?

Technically, the full release of an outgoing tenant's obligations to their landlord can only be achieved in compliance with the requirements of the Landlord and Tenant Law Amendment Act, Ireland 1860 (Ireland) (otherwise referred to as Deasy's Act), i.e. the consent of the landlord must be endorsed on the deed of assignment in accordance with the requirements of that Act. In practice, it is generally accepted that landlord's consent is provided in the form of a licence to assign. The Land and Conveyancing Law Reform Act 2009 also implies a covenant and indemnity by the new tenant in favour of the outgoing tenant regarding the future performance of the tenant's covenants in the lease.

Again, under Deasy's Act, landlords technically remain liable to their original tenants so that, in practice, landlords should obtain a covenant and indemnity from the buyer of their interest regarding the future performance of the landlord's covenants in the lease.

Both the landlord and tenant can be liable in respect of pre-sale non-compliance, unless expressly agreed or mitigated otherwise.

10.7 Green leases seek to impose obligations on landlords and tenants designed to promote greater sustainable use of buildings and in the reduction of the "environmental footprint" of a building. Please briefly describe any "green obligations" commonly found in leases stating whether these are clearly defined, enforceable legal obligations or something not amounting to enforceable legal obligations (for example aspirational objectives).

Green/sustainability obligations are evolving in Ireland but covenants currently appearing in leases include:

- Tenant commitments to data sharing and consumption monitoring (coupled with a Landlord commitment also in respect of their obligations for a multi-let building). This is considered fundamentally important to allow compliance with wider ESG reporting obligations and for EU Taxonomy alignment, where this is important to either party now or in the future.
- Tenant commitment not to do anything to adversely impact the current BER and any other sustainability accreditations.
- Tenant commitments for use/operation regarding waste management, water use, energy use (heating and lighting) and cleaning.
- General co-operation on setting sustainability goals.
- A breach of a sustainability clause would typically be deemed a breach of a general covenant in the same way as any other.

10.8 In your opinion, are there any trends in your market towards more flexible space for occupiers, such as shared short-term working spaces (co-working) or shared residential spaces with greater levels of facilities/activities for residents (co-living)? If so, please provide examples/details.

Yes, there has been an increase and there are a number of players in the Irish market offering flexible/co-working workspaces.

In terms of shared residential spaces, co-living as a multi-family model where residents share the common areas of units such as living rooms and kitchens while retaining their private personal spaces is no longer supported by planning regulation. While concessions from standard apartment specifications to support "build to rent" apartments have recently been withdrawn, the "build to rent" model remains open. Within "build to rent" developments in particular, there are greater levels of facilities and amenities, indoor and outdoor amenity spaces, gyms, concierges, lounges, meeting rooms and landscaped courtyards.

11 Leases of Residential Premises

11.1 Please briefly describe the main laws that regulate leases of residential premises.

The RT Acts regulate the majority of residential tenancies in Ireland. Subject to certain specific exemptions, the RT Acts apply to tenancies of dwellings (as defined in the legislation) for rent or other valuable consideration. Where a residential tenancy does not come under the application of the RT Acts, the Landlord and Tenant Act 1967 to 2019 apply instead. They RT Acts apply in a modified way to cost-rental ("affordable") tenancies, tenancies granted by approved housing bodies ("AHB") and licences of purpose-built student-specific accommodation.

11.2 Do the laws differ if the premises are intended for multiple different residential occupiers?

Yes. Subject to certain exemptions (including where the landlord also resides in the dwelling), the RT Acts generally only apply to tenancies of dwellings (defined in the legislation as a self-contained residential unit) for rent or other valuable consideration. If rooms are let on a room-by-room basis with shared bathroom and cooking facilities, this is not self-contained and the RT Acts do not apply, unless the accommodation is student-specific accommodation. In the case of student-specific accommodation, the student resident does not obtain security of tenure. The actual application of the RT Acts to each specific tenancy type is beyond the scope of this note.

11.3 What would typical provisions for a lease of residential premises be in your jurisdiction regarding: (a) length of term; (b) rent increases/controls; (c)the tenant's rights to remain in the premises at the end of the term; and (d) the tenant's contribution/obligation to the property "costs", e.g., insurance and repair?

(a) The initial length of term would generally be 12 months but, unless security of tenure does not apply to it, a tenancy in place for six months or more becomes a tenancy of unlimited duration – see further on this below.

(b) Rents set by private landlords can never exceed the current "market rent" for the type of tenancy in question. In designated rent pressure zones ("RPZs"), there is an additional restriction that rents cannot be set or increased by more than the lower of: 2% *per annum* on a *pro rata* basis; or the rate of inflation as recorded in the harmonised index of consumer prices unless an exemption under the RT Acts applies.

(c) Unless security of tenure does not apply to it, a tenancy in place for six months or more becomes a tenancy of unlimited duration and is only terminable by the landlord on limited grounds, including for breach, or unsuitability or where the landlord requires vacant possession for sale, substantial refurbishment, change of use or own or family use. Each ground for termination by the landlord is further subject to specific conditions that must be strictly met.

(d) A tenant has no obligation under the RT Acts to contribute to the landlord's property costs in respect of insurance and repair, but the tenant would be expected to insure their own contents. The tenant's obligations in terms of repair are to return the property without any deterioration in its original condition apart from normal wear and tear.

11.4 Would there be rights for a landlord to terminate a residential lease and what steps would be needed to achieve vacant possession if the circumstances existed for the right to be exercised?

The rights of a landlord to terminate a residential tenancy of unlimited duration are briefly set out at question 11.3 above. Termination of residential tenancies is highly regulated so that the specific steps required for the exercise of each of those rights are beyond the scope of this note, save that each would require written notice of termination served in accordance with all of the requirements of the RT Acts, which must provide at least the minimum notice period for termination of that tenancy as required by the RT Acts and must be accompanied by any supporting declarations required for the valid exercise of the right of termination. A termination notice for non-payment of rent must be preceded by an initial warning letter. All notices of termination must also be simultaneously served on the Residential Tenancies Board.

12 Public Law Permits and Obligations

12.1 What are the main laws which govern zoning/permitting and related matters concerning the use, development and occupation of land? Please briefly describe them and include environmental laws.

The Planning and Development Acts 2000–2023 (the "Planning Acts") govern planning and zoning matters. The Planning Acts regulate the zoning of areas through development plans, special amenity area plans, local area plans and other regional plans. More specifically, development is controlled through the planning application process where licences or permission for development are either granted/refused by a local authority (of which there are 31 in Ireland) or on appeal by An Bord Pleanála ("ABP"), i.e. the Planning Appeals Board.

Following a 15-month review of the planning system, the Planning and Development Act 2024 was signed in to law on 17 October 2024 but has not yet substantially commenced. The new Act will replace the current Planning Acts and aims to bring greater clarity, certainty, and consistency to how planning decisions are made, in order to make the planning system more coherent and user-friendly for the public and planning

practitioners. The government has indicated that it will take 18 months to bring the new Act into force and transition from the current Planning Acts.

At present, however, the main laws that govern zoning and related matters are as follows:

- Planning Acts.
- Planning and Development Regulations 2001–2023.
- Housing Acts 1966–2014.
- Maritime Area Planning Act 2021.

The main laws that govern environmental matters are as follows:

- Environmental Protection Agency Acts 1992–2011.
- Protection of the Environment Act 2003.
- Environmental (Miscellaneous Provisions) Acts 2011–2015.
- Waste Management Acts 1996–2011.
- Waste Management (Facility Permit and Registration) Regulations 2007.
- Waste Management (Collection) Regulations 2007.
- Waste Management (Shipment of Waste) Regulations 2007.
- European Communities (Waste Directive) Regulations 2011.
- European Union (Waste Electrical and Electronic Equipment) Regulations 2014.
- European Union (Batteries and Accumulators) Regulations 2014.
- Air Pollution Acts 1987–2011.
- European Communities (Environmental Liability) Regulations 2008.
- EC (Access to Information on the Environment) Regulations 2007.
- European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015.
- Local Government (Water Pollution) Acts 1977–2007.
- Water Services Acts 2007–2022.
- Waste Water Discharge (Authorisation) Regulations 2007.
- European Union (Energy Efficiency) Regulations 2014.
- Climate Action and Low Carbon Development Acts 2015–2021.
- European Union (Disclosure of Non-Financial and Diversity Information by certain large undertakings and groups) Regulations 2017.
- European Union (Water Policy) (Abstractions Registration) Regulations 2018.
- Water Environment (Abstractions and Associated Impoundments) Act 2022.
- Waste Management (Landfill Levy) Regulations 2024.

12.2 Can the state force land owners to sell land to it? If so please briefly describe including price/compensation mechanism.

Local authorities and other State agencies can compulsorily acquire lands in limited circumstances such as: (1) where a site is derelict and poses a danger in the community; (2) for the purpose of developing infrastructure (such as housing, roads, business parks, railways, or other infrastructure, including electricity and gas); and (3) for conservation/preservation purposes.

Where property is compulsorily acquired by a local authority, compensation is payable to all persons with an interest in the lands. The assessment of compensation generally falls under a number of headings of claim to include the value of the land acquired, any diminution in value of any retained lands, cost resulting from acquisition, disturbance, loss of profits or goodwill, loss or depreciation of stock in trade, and professional fees necessary for acquisition.

12.3 Which bodies control land/building use and/or occupation and environmental regulation? How do buyers obtain reliable information on these matters?

Land/building use and/or occupation: the local authority is the responsible body for controlling land/building use and occupation. ABP is the responsible body for hearing appeals against decisions of the local authority. ABP is also authorised under the Planning Acts to use a streamlined procedure for certain applications (both State and private) for strategic infrastructure projects.

Environmental regulation: the Environmental Protection Agency ("EPA"), its office of Environmental Enforcement and the local authorities are responsible for environmental regulation.

Buyers may obtain reliable information on these matters by consulting legal, planning and environmental experts, legislation, the appropriate local authority, and EPA websites.

12.4 What main permits or licences are required for building works and/or the use of real estate?

A grant of planning permission is generally required before any development can commence unless the development is specifically exempted. Planning permission is required for any post-1964 development. "Development" includes carrying out works (building, demolition, alteration) on, in, over or under land or buildings and making material (i.e. significant) changes to the use of land or buildings.

In addition to planning permission, certain licences may be required to carry out certain activities. These include licences issued under the EPA Acts, the Water Services Acts, the Air Pollution Acts, and the Waste Management Acts.

The Building Control Acts 1990–2014 must be complied with for all building works carried out since June 1992. The Building Control Regulations 2014 apply to new extensions, buildings, change of use of buildings and material alterations. The Regulations regulate Commencement Notices and seven-day notices, Fire Safety Certificates, Fire Safety Regularisation Certificates, and Disability Access Certificates. It is an offence not to submit a Commencement Notice and failure to submit a Commencement Notice cannot be regularised at a later date.

Furthermore, health and safety legislation must be considered where individuals are engaged to carry out works at a property. The Safety Health & Welfare at Work Acts 2005–2014 must be complied with for all building works.

12.5 Are building/use permits and licences commonly obtained in your jurisdiction? Can implied permission be obtained in any way (e.g. by long use)?

Planning permission is generally required before any development can commence, unless the development is specifically exempted. In addition, where a local authority fails to make a decision on a planning application within a specific time limit, default planning permission is deemed to have been granted.

Where development occurs without planning permission having been obtained, a party can make an application for retention permission, save for developments within the scope of the environmental impact assessment regime. If unauthorised development has taken place and the Planning Authority

has not issued enforcement proceedings within seven years, it is prevented from doing so at a later date; exceptions to this are contained in respect of developments involving quarries and peat extraction.

12.6 What is the typical cost of building/use permits and the time involved in obtaining them?

Each local authority sets a fee for making an application for planning permission or making an observation on an application. Fees for different classes of development are listed on planning application forms, which are available from a local authority's offices or from its website. In addition to planning application fees, applicants are responsible for arranging the preparation of required drawings and particulars from suitably qualified professionals.

Application fees are also payable under the EPA Acts, the Water Services Acts, the Air Pollution Acts and the Waste Management Acts, and are determined by the relevant body.

A planning authority must make a decision within eight weeks of the planning application being received. It may require further information in which case it must make a decision within four weeks of receipt of the information. The eight-week time limit can also be extended in certain circumstances. An 18-week time limit is applicable for appeals to ABP. However, this is an aspirational, non-binding time limit, and is often extended.

If the planning authority consents to the application for permission, it will issue a decision to grant planning permission, which is not a full permission. Once the planning authority notifies the relevant parties of its decision, the applicant and any third party who made a submission or observation in relation to the application have four weeks within which to appeal this decision or any conditions attached to it. If there is no appeal, then the planning authority will issue a formal grant of planning permission at the end of the appeal period.

12.7 Are there any regulations on the protection of historic monuments in your jurisdiction? If any, when and how are they likely to affect the transfer of rights in real estate or development/change of use?

Currently, local authorities maintain a Record of Protected Structures (the "RPS"). Inclusion of these structures in the RPS means that they are legally protected from harm and all future changes to the structure are controlled and managed through the local development control process. Structures that are listed on the RPS are subject to more restrictive development conditions; therefore, types of work, which in another building would be considered exempted development, may not be exempted where the building is a protected structure.

The local authority may issue a declaration under the Planning Acts determining the proposed works would be considered exempt from the requirement to obtain planning permission. However, a declaration cannot exempt any works that would otherwise require planning permission. A search of the RPS will reveal if a structure is protected. If the structure is protected, this will limit or restrict the development potential of the structure. Owners and/or occupiers of a protected structure must ensure that the structure or any element of it is not endangered. It is an offence to damage a protected structure or proposed protected structure.

12.8 How can, e.g., a potential buyer obtain reliable information on contamination and pollution of real estate? Is there a public register of contaminated land in your jurisdiction?

Ireland has no statutory regime for dealing with contaminated land and has no dedicated register of contaminated land. However, the EPA is obliged to draft a National Hazardous Waste Management Plan. The current plan covers the period 2021–2027, and aims to protect the environment and human health in Ireland through best-practice management of hazardous wastes through the following objectives:

- reducing the generation of hazardous waste;
- identifying adequate and appropriate collection infrastructure for all hazardous wastes;
- endorsing the proximity principle such that hazardous wastes are treated as close to the point of production as possible;
- supporting effective regulation of the movement and management of hazardous wastes; and
- promotion of safe reuse and recycling pathways in support of the circular economy.

Another potential legislative resource a potential buyer could utilise to obtain information on contamination is the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activities) Regulations 2008. It required Local Authorities to identify and register all closed landfills within their functional areas by 30 June 2009.

A potential buyer may also be able to rely on the Water Services Acts. It provides for a system of registration and inspection of domestic waste-water treatment systems. Owners of waste-water treatment systems will be required to register their system and re-register every five years. The register will be available for public inspection, and it will be an offence not to register. Where properties connected to waste-water treatment systems are sold, the seller will be required to produce a valid registration certificate.

12.9 In what circumstances (if any) is environmental clean-up ever mandatory?

Environmental clean-up is mandatory where a party breaches the provisions of the Environment (Miscellaneous Provisions) Act 2015 and the EPA Acts, the Waste Management Acts, and the Water Services Acts. Sections 55–58 of the Waste Management Acts are particularly relevant in this regard, which provide that a party will be liable for the costs of a clean-up and, in addition, any costs incurred by the EPA or local authority in investigating an incident. The responsible party will be liable for costs of enforcement proceedings.

12.10 Please briefly outline any regulatory requirements for the assessment and management of the energy performance of buildings in your jurisdiction.

Since July 2008, a BER certificate and advisory report must be supplied by all sellers/landlords to a prospective buyer/tenant when a building is constructed, sold or rented. A BER certificate is an energy label for buildings that rates the building from A1 (most efficient) to G (least efficient). Since January 2013, BER information must also be provided in advertisements for the sale or rental of property. The Regulations provide for exemptions for certain categories of buildings.

13 Climate Change

13.1 Please briefly explain the nature and extent of any regulatory measures for reducing carbon dioxide emissions (including any mandatory emissions trading scheme).

Ireland adopted the Climate Action Plan 2024 ("CAP24") in order to implement carbon budgets and sectoral emissions ceilings. CAP24 sets out a roadmap for reducing emissions by 51%, halving emissions by 2030 and reaching net zero no later than 2050. In the real estate sector, CAP24 aims to reduce emissions in commercial/public buildings and residential buildings by 45% and 40%, respectively, by 2030.

CAP24 sets out key targets for the built environment, including:

- All new dwellings designed and constructed to Nearly Zero Energy Building standard by 2025, and Zero Emission Building standard by 2030.
- Equivalent of 120,000 dwellings retrofitted to BER B2 or cost-optimal equivalent by 2025, and 500,000 dwellings by 2030.
- Up to 0.8 TWh of district heating installed capacity by 2025, and up to 2.7 TWh by 2030.
- 170,000 new dwellings using heat pumps by 2025, and 280,000 by 2030.
- 45,000 existing dwellings using heat pumps by 2025, and 400,000 by 2030.
- Up to 0.4 TWh of heating provided by renewable gas by 2025, and up to 0.7 TWh by2030.

To achieve its key targets, CAP24 provides for a number of measures and actions to be taken, including:

- An ambitious National Residential Retrofit Plan.
- Strengthening existing Building Regulations.
- Establishment of the Heat and Built Environment Delivery Taskforce.
- Development of a National Policy Statement on Heat.
- Supporting the growth and development of district heating, electrification of heating and geothermal energy.
- A roadmap to support the decarbonisation of commercial buildings.
- Support for the public sector to decarbonise its building stock.

The only emissions trading scheme is the EU Emissions Trading Scheme ("EU ETS"). As in other Member States of the EU, the EU ETS covers various types of high-emission stationary installations, including power stations, combustion plants and oil refineries. In 2012, the EU ETS was extended to include certain aircraft flying from, to or within the EU. The national emissions trading registry is required to be maintained and this is carried out by the EPA.

13.2 Are there any national greenhouse gas emissions reduction targets?

Ireland's Climate Action and Low Carbon Development Acts 2015–2021 places on a statutory basis the "National Climate Objective" that "the State shall, so as to reduce the extent of further global warming, pursue and achieve, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy".

The Acts also provides for a 51% reduction in greenhouse gases by 2030 compared to 2018 levels, and puts in place a rigorous governance structure, including a system of carbon budgeting, sectoral emissions ceilings, a national adaptation framework, sectoral adaptation plans, and annually updated Climate Action Plans, to ensure that Ireland achieves its national, EU and international climate commitments in the near and long-term.

13.3 Are there any other regulatory measures (not already mentioned) which aim to improve the sustainability of both newly constructed and existing buildings?

In May 2024, the recast Energy Performance of Buildings Directive ("EPBD") came into force. Overall, the recast EPBD provides for a range of ambitious measures aimed at reducing energy emissions from buildings across the EU in a marked step change. Member States will have until May 2026 to incorporate its requirements into their national laws.

The EPBD will make zero-emission buildings the new standard for all new buildings (both residential and non-residential). All new public buildings should be zero-emission buildings by 2028, with a deadline of 2030 for all other new buildings. Member States may exempt certain categories of buildings from these obligations.

For commercial buildings, specific targets are set for renovation of the worst performing buildings: 16% by 2030; and 26% by 2033. For residential buildings, specific targets are set for reducing the average primary energy use by 16% by 2030 and 20–22% by 2035. Quite how the requirements for decarbonising existing buildings will operate in Ireland will not be clear until we see the Irish implementing regulations.

The recast EPBD introduces a common scale of energy performance classes and a common template to ensure comparability between energy performance certificates and allowing for greater transparency across the EU in lending, investment, letting and purchase decisions.

Member States are required to put in place the plans and the tools to ensure that everyone is equipped to facilitate this, including:

- establishing national Building Renovation Plans to set out the national strategy to decarbonise the building stock and how to address remaining barriers, such as financing, training and attracting more skilled workers;
- setting up national building renovation passport schemes to guide building owners in their staged renovations towards zero-emission buildings; and
- establishing one-stop-shops for homeowners, SMEs, and all actors in the renovation value chain to receive dedicated and independent support and guidance.

Other significant changes under the recast EPBD are as follows:

- National building renovation plans must include a roadmap with a view to phase out fossil fuel boilers by 2040.
- Buildings are to boost sustainable mobility by making provision for pre-cabling, recharging points for electric vehicles and bicycle parking spaces and removing barriers to the installation of recharging points, so that the "right to plug" becomes a reality.
- Member States must ensure that new buildings are solar-ready, meaning that they must be fit to host rooftop photovoltaic or solar thermal installations.

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