



PSRA NEWS

December 2019

IN THIS ISSUE:

**CHRISTMAS MESSAGE FROM THE
CEO, MAEVE HOGAN**

**HIGH COURT CONFIRMS FIRST
PROHIBITION ON LICENSEE TO
TRADE**

**SUCCESSFUL UNLICENSED
PROSECUTION BY PSRA**

**CHANGES TO THE REGISTER OF
LICENSED PSPS**

LICENCE RENEWALS

AML UPDATE

CPD REQUIREMENT FOR 2019

CASH BOOKS

PSRA AWARENESS CAMPAIGNS

**LAUNCH OF PSRA'S 2018
ANNUAL REPORT**

PSRA CONTACT DETAILS:

Property Services
Regulatory Authority,
Abbey Buildings,
Abbey Road,
Navan, Co Meath,
C15 K7PY .

Email: info@psr.ie

Web: www.psr.ie

Phone Hours:

PH: 046-9033800
Lo-Call: 1890-252712

10 am — 12:30 pm

2:30 pm — 4 pm

A Message from the Chief Executive Maeve Hogan

As we approach the end of 2019, it is time once again to reflect on the year gone by.

This year has been a busy one for the PSRA during which our Inaugural Conference - "Property Services, Facing the Future" was held in Croke Park in March. The feedback that we received from those who attended was extremely positive and I would like to thank all of you who took the time from your busy schedules to attend on the day, as well as acknowledging the hard work of the staff of the Authority in the planning and hosting of the event.

This is the second year of the Continuous Professional Development programme and, to date, a large number of licence holders have fulfilled their obligation to complete CPD before the year end. I strongly urge those of you who have not yet completed your 2019 requirement to do so as soon as possible. More information about completing CPD is contained in an article in this edition of "PSRA News".

The expansion of our online application platform continued during the year and since 1st April the full suite of PSRA application forms and payment systems has been available online through www.licences.ie.

Once again 2019 afforded the Authority the opportunity to engage with both licence holders and members of the public at various events throughout the country, including the Ideal Homes Exhibition, the Over 50s Expo, the Ploughing Championships, as well as at our Inaugural Conference.

I would like to thank you for your engagement with the PSRA during 2019 and to acknowledge your professionalism and support. I hope that, over the Christmas holiday, you have an opportunity to relax and spend time with family. Wishing you all a Happy Christmas and a prosperous 2020.

Nollaig Shona agus Athbhliain faoi mhaise daoibh.

Maeve Hogan

Chief Executive



High Court confirms PSRA first prohibition on a licensee to trade

Successful unlicensed prosecution by PSRA



Details of these cases can be found on page 2

High Court confirms PSRA first prohibition on a licensee to trade

On Monday, 25 November 2019, the High Court permanently prohibited a former licensee, Mr Tony Breathnach who had traded as Cavan Real Estate Ltd., from reapplying for a licence. Mr. Breathnach unexpectedly ceased to trade with the client account left empty. This is the first time that a licensee or former licensee has been “struck off” the Register of Licensees. In addition, the High Court also ordered that Mr Breathnach pay a sum of €50,000 to the Authority and to make an additional payment of €48,492.82 into the Property Services Compensation Fund. The Court gave Mr Breathnach 90 days to pay and indicated that, on non-payment, the Authority could apply to it again immediately for a judgement which could be enforced against Mr Breathnach.

... the High Court also ordered that Mr Breathnach pay a sum of €50,000 to the Authority and to make an additional payment of €48,492 into the Property Services Compensation Fund.

The complaints were formally investigated by the Authority’s Inspectors and Mr Breathnach was found to have engaged in serious “improper conduct” and the Authority recommended the three-pronged major sanction described and confirmed by the High Court.

All of the complaints concerned the non-return of booking deposits. All claims have been assessed by the PSRA and all valid claims were compensated from the Property Services Compensation Fund.

While this case shows how badly wrong things can go where a rogue licensee is involved, it also demonstrates the Authority’s determination to deal decisively with serious improper conduct.

This was confirmation by the court of a “major sanction” imposed by the Authority on Mr Breathnach and arose from complaints of improper conduct made against him.

An Garda Síochána have been involved in this matter from the beginning and there has been a high level of cooperation between the Authority and the Gardaí.

Successful Unlicensed Prosecution by PSRA



On Thursday 19th September, 2019, Mr Richard Finn, t/a Martin Finn & Co Auctioneers and Insurances and / or Martin Finn & Co Auctioneers & Valuers, was convicted at Castlebar District Court of a breach of Section 28 of the Property Services (Regulation) Act 2011, following a prosecution by the Property Services Regulatory Authority (PSRA) for unlicensed trading carried out on 8th November, 2018.

Mr Finn did not dispute the facts of the case and Judge Deirdre Gearty fined Mr Finn €500 and awarded costs of €2,500 to the PSRA.

Anybody who has concerns about a property service provider operating without a licence should contact the PSRA at info@psr.ie.

Changes to the Register of Licensed Property Service Providers

Over recent months, the Authority undertook a review of the publication of the Register of Licensed Property Services Providers which is displayed on our website.

The function of the Register is to inform the consumer of whether the property service provider (PSP) they wish to engage is licensed, and therefore legally entitled to provide property services.

In its original format and presentation, the review found that the Register could cause confusion for users, as licence information could be found on individuals and businesses across multiple lists and not just those currently licensed.

A new Register went live on the Authority's website on 11th November, 2019. The new format is an amalgamation of the Current Licence holders and Licence Renewals Under Consideration lists which includes details of all those who are currently legally entitled to provide property services.

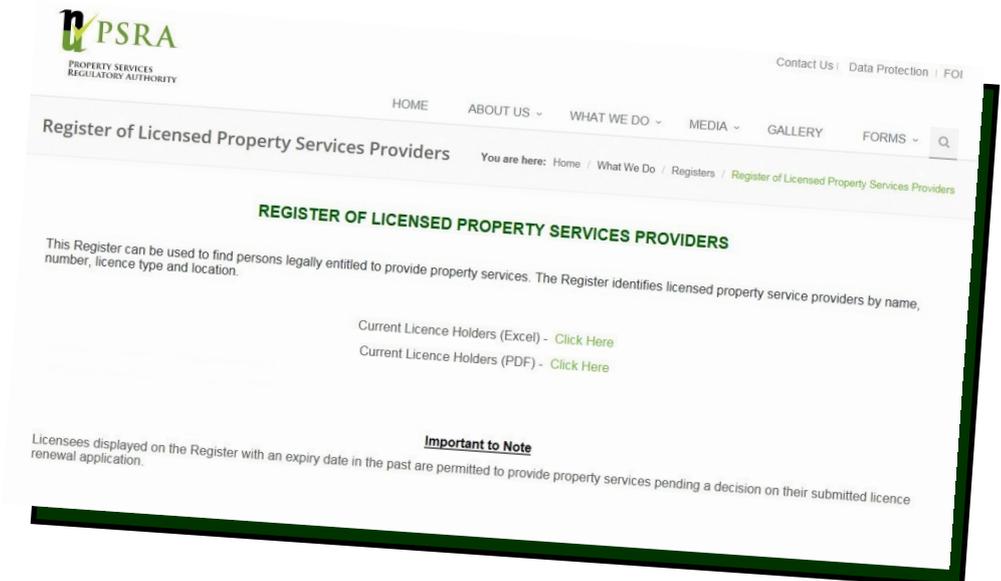
As part of this review, the Authority has also amended the information published on the Register to include the business address of the employer. Separately the employer's name and business address will display after the principal officer and or employee's name.

Licensed employers should therefore ensure that the business address held by the Authority is accurate.

It is also important to inform the Authority of any changes of employment in relation to licensed employees. Where a principal officer and/or employee leaves the employer for whom they were licensed, the Authority must be informed of this in writing and their licence identification card surrendered.

Employees transferring to a new employment are required to complete and submit a Change of Property Services Employer form to the Authority through Licences.ie.

Please note that where the business address provided is a residential address this will be published on the Register.



Check the Register . . .

www.psr.ie

Licence Renewals

Licencees are reminded of the importance of renewing their licence on time as where a licence expires, the licensee is prohibited from providing property services and will be removed from the Register of Licensed Property Service Providers.

In order to resume providing property services a new licence application must be submitted through Licences.ie and granted by the Authority. **New**

licence applicants are prohibited from providing property services while the licence application is being assessed and should be aware that the processing of new licence applications can take some time to complete, as the Authority confirms that all requirements in relation to the expired licence have been met.

In particular, where a company licence expires Professional Indemnity Insurance run off cover must be put in place for 7 years, and evidence provided that all liabilities to clients have been discharged and client bank accounts closed.

Where a new licence is granted, a new licence number will issue and all signage, stationery, web pages must be changed to display this new number.

So the message is ensure that your licence renewal application is submitted before the expiry date to avoid any issues which would affect your ability to provide property services.



AML Update: Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies



The CRO's Central Register of Beneficial Ownership (RBO) was launched in July 2019. The register provides a valuable resource to Property Service Providers (PSPs) in identifying Beneficial Owners, as part of the Customer Due Diligence process. This is a requirement under the current Anti-Money Laundering legislation, for PSPs dealing with corporate clients.

The term "Beneficial Owner" refers to any individual who owns or controls the company through direct or indirect ownership of shares, voting rights or any other interest in that company. The RBO allows users to identify beneficial owners for all companies registered in Ireland.

The RBO is a valuable tool which allows PSPs to verify beneficial owners associated with their corporate clients. Where this information is not available through RBO, PSPs are advised to request their client's corporate structure/organisation chart and specify that this should include all beneficial owners. It is crucial that a PSP has a full understanding of the corporate structure of the client they are dealing with and is aware of the identities of their fundamental beneficiaries.

CPD Requirement for 2019



A final reminder that all licence holders must complete 5 hours of PSRA CPD training before the end of 2019. Your attendance is compulsory and non completion by you of your CPD requirement is a breach of Section 81 of the Property Services (Regulations) Act 2011.

In early 2020 the Authority will undertake investigations of licensees who fail to complete their 2019 statutory CPD requirement.

Following investigation and where it is found that the licensee did not complete their CPD requirement, the licensee may be subject to sanction by the Authority.

There are a few points to note when booking and registering for your PSRA CPD:

- Ensure the correct licence number is entered. Issues have arisen where licensees have entered the wrong number which can in some cases be allocated to a different licence holder

- Make sure to use your full licence number. If you are a sole trader, your licence number will be 6 digits long e.g. 005678. Directors of a limited company, both partners in a partnership and employees of a company have licence numbers that are 12 digits long e.g. 005679-009876. Submitting partial or incomplete licence numbers will result in your CPD record not being updated accurately.

Once CPD has been completed you should receive a Certificate of Completion from the relevant provider within a number of weeks. **The onus is on you to ensure that you have received your certificate and that the details on it, in particular, your licence number and name are correct.** Missing or incorrect CPD certificates could result in an investigation taking place.

There are still a limited number of PSRA CPD events available to ensure that you can meet your CPD requirement for 2019.

These events are provided by IPAV and SCSi who are the accredited CPD providers on behalf of the PSRA.

To book your 2019 PSRA CPD event go to the Continuous Professional Development page on our website, www.psr.ie or contact the provider directly.

You should also note that only PSRA accredited CPD is recognised by the Authority, so licensees should ensure, when booking, that it is a PSRA accredited programme.

Cash Books

Client Moneys Regulations require licensees to maintain and keep minimum accounting records including a *“Cash book that shows separate cash transactions pertaining to office account and separate cash transactions pertaining to client account.”*

During the Audit process, Inspectors are finding that licensees do not have “Cash Books” and that the licensees believe a cash book is to record receipt of “cash”.

“Cash” is legal tender in any form that can be used to exchange goods, debts or services.

The cash book is used to record receipts and payments of cash/legal tender. It works as a book of original entry. The entries relating to receipt and payment of cash/legal tender are first recorded in the cash book and then posted to the relevant ledger accounts.

PSRA Awareness Campaigns



COMMERCIAL LEASES

The Property Services Regulatory Authority (PSRA) undertook a targeted campaign in November to raise awareness amongst tenants of Commercial Property and Agricultural Land of their statutory obligation to make a Commercial Lease Return (“Return”) to the PSRA.

Over 5,500 letters issued to tenants as part of this campaign, reminding them of their statutory obligation to make a Return in respect of their Commercial Lease.

In conjunction with this, a radio advertising campaign was run in the week beginning 25th November, 2019.

We would like to thank Licensees for their continued support in reminding tenants of Commercial Property and Agricultural Land of the requirement to submit a Return to the PSRA.

UNLICENSED OPERATORS

Also during November, the Authority ran a radio campaign focused on raising public awareness that all Property Service Providers (“PSPs”) must hold a licence issued by the PSRA and the importance of checking the Register of Licensed Property Services Providers.

Launch of the PSRA’s 2018 Annual Report



The Minister for Justice and Equality, Charlie Flanagan, T.D., launched the Property Services Regulatory Authority’s (PSRA) 2018 Annual Report at the National Ploughing Championships in Ballintrae, Fenagh, Co Carlow on 18th September.

In launching the PSRA’s Annual Report the Minister highlighted key events and milestones for the Authority in 2018 including the undertaking of a comprehensive survey of licensees concerning the impact of regulation on the sector, which saw a 25% response rate.



We would like to wish all Licensees a Happy Christmas and a Prosperous New Year