

Consumer market study on the functioning of the real estate services for consumers in the European Union

Country fiche – REPUBLIC OF IRELAND

General information

Country	Republic of Ireland
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Main Sources Used	See list at point 1.2

1. Regulatory background

1.1 Level of regulation in the country

Table 1: Level of regulation			
	Level of regulation	Source of relevant legislation	Ongoing discussion on regulation/deregulation: current state of affairs and main arguments in the debate
Real estate transactions ¹	Partly regulated Formality and registration regulation, also identity set out by the legislation in the column to the right. Identity checks are carried out by solicitors.	Land Conveyancing and Law Reform Act 2009 Registration of Title Act 1964 Registration of Deeds and Title Act 2006 Criminal Justice (Money Laundering and Terrorist Financing) Act 2010	Extension of identity checks to beneficial owners of companies and beneficiaries under trusts
Notary system (or lawyer/conveyancer system) ²	Solicitors. Partly regulated. The solicitor's profession is self-regulated. Unlike civil law jurisdictions, Irish law is not based on notarisation, but rather on the use of formal documents. These documents are drafted by solicitors who verify the identity of the parties involved. Notaries do not play a significant role in the conveyancing system in Ireland.	Legal Services Regulation Act 2015	Reform of regulation of legal services has been the subject of considerable discussion leading up to, ³ and following, ⁴ the passage of the Legal Services Regulation Act 2015. There is ongoing discussion about the reform process as well as specific issues concerning the introduction of limited liability partnerships for solicitors; the introduction of licensed conveyancers; the proposed shift from self-regulation by the Law Society to the introduction of independent regulation by the Legal Services Regulatory Authority; changes to legal professional training for solicitors etc.
Profession of estate agents	Partly regulated	Property Services (Regulation) Act 2011	Ongoing concerns about professional standards.

¹ E.g. limitations or prohibitions of certain transactions; specific formality requirements etc.

² Only in countries where notaries do not exist or do not have a monopoly on conveyancing.

³ A number of reports have recommended reform of legal services regulation in Ireland. These include the Restrictive Practices Commission (1982), the Fair Trade Commission (1990) and the OECD (2001). Most recently, the Competition Authority made 29 recommendations in a report published in 2006. See Competition Authority, 'Competition in Professional Services: solicitors and barristers' (Dublin; Stationery Office, 2006), available at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/03/Solicitors-and-barristers-full-report.pdf> (last accessed 22/5/17).

⁴ The Chairperson of the Competition and Consumer Protection Commission has expressed concerns about the reform process. See I. Goggin, 'Does the law protect incumbents? The case of legal services reform in Ireland' (Burren Law School, 29 April – 1 May 2016) available at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/05/Does-the-law-protect-incumbents-FINAL-29APR16.pdf> (Last accessed 22/5/17).

Table 1: Level of regulation

	A Property Services Regulatory Authority was established in 2011, which is responsible for regulating the profession of estate agents.	Consumer Protection from Unfair Trading Regulations 2008	
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1.2 National legislation

Table 2: List of national legislation

List of national legislation	Classification of national legislation	Content of the national legislation
Building Control Act 2006	Regulation of professionals	Set standards in the design and construction of buildings
Consumer Protection Act 2007	Consumers	Implements Consumer Protection from Unfair Trading Regulations 2008, SI 2007/1277; protects consumers from unfair or misleading trading practices and bans certain practices; established National Consumer Agency (now the Competition and Consumer Protection Commission)
Energy Performance of Buildings Regulations 2012, SI 2012/243	To real estate transactions	Energy efficiency of buildings; provides for building energy labelling system (Energy Performance Certificate)
EU (Consumer Mortgage Credit Agreements) Regulations 2016, SI 2006/142	Regulation of professionals, real estate transactions	Consumer protection in credit transactions; various effects including minimum information requirements; creditworthiness assessment; property valuation
EU (Protection of Consumers in respect of Timeshare, Long-term Holiday Product, Resale and Exchange Contracts) (Amendment) Regulations 2014, SI 2014/400	Regulation of professionals, real estate transactions	Consumer protection in timeshare transactions
EU (Recognition of Professional Qualifications) Regulations, SI 2017/8	Regulation of professionals	Recognition of EU qualifications
Land Conveyancing and Law Reform Act 2009	Regulation of professionals, real estate transactions	Reforms Irish land law and conveyancing law
Legal Services Regulation Act 2015	Regulation of professionals	Established Legal Services Regulatory Authority to regulate legal service providers in Ireland

Table 2: List of national legislation

Property Services (Regulation) Act 2011	Regulation of professionals	Established Property Services Regulatory Authority to regulate providers of property services; licencing of estate agents; drafting codes of practice
Registration of Title Act 1964	Real estate transactions	Provided for land registration system
Registry of Deeds and Title Act 2006	Real estate transactions	Established Property Registration Authority; provides registration services to support registered and unregistered conveyancing system
Residential Tenancies Act 2004	Regulation of professionals, real estate transactions, consumers	Provides framework for regulation of private rented sector; established Residential Tenancies Board etc.

1.3 Implementation of relevant EU legislation

Table 3: Implementation of relevant EU legislation

EU legislation	Implementation achieved?	Implementation of EU legislation at the national level (e.g. the name of the law)	Source of the national implementation legislation	Content of the national legislation in keywords	Which parts of the EU legislation have <u>not</u> been transposed?
Directive 2005/29/EC on unfair commercial practices (UCPD)	Yes	Consumer Protection Act 2007	Number 19 of 2007	Part 3 integrates Directive and pre-existing domestic law	None
Directive 93/13/EEC on unfair terms in consumer contracts	Yes	European Communities (Unfair Terms in Consumer Contracts) Regulations (as amended)	S.I. No. 27 of 1995	Same as Directive	None
Directive 2008/122/EC on the protection of consumers, in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts	Yes	European Union (Protection of Consumers in respect of Timeshare, Long-term Holiday Product, Resale and Exchange Contracts) Regulations 2011	S.I. No. 73/2011	Same as Directive	None

Table 3: Implementation of relevant EU legislation

Directive 2010/31/EU of Energy Performance of Buildings Directive	Yes	European Union (Energy Performance of Buildings) Regulations 2012	S.I. 243 of 2012	Consolidates 2007 Regs implementing 2002 Directive and subsequent amendments	None
Directive 2005/36/EC on Recognition of Professional Qualifications, as last amended by Directive 2013/55/EU	Yes	Recognition of Professional Qualifications (Directive 2005/36/Ec) Regulations, 2008 (as amended)	S.I. No. 139/2008	Implements recast Directive	None
Mortgage Credit Directive, 2014/17/EC	Yes	European Union (Consumer Mortgage Credit Agreements) Regulations 2016	S.I. No. 142 of 2016	Same as Directive	None

1.4 Communications and strategy papers

Table 4: Communications and strategy papers

Communication or strategy paper	Have the following communications and strategy papers been referred to in national documents?	Name of document	Source	Content	Differences with respect to communications and strategy papers listed in the first column
COM(2015) 550 final Communication of the Commission Upgrading the Single Market: more opportunities for people and business	Yes	EU Scrutiny Work Programme 2015 Joint Committee' Priorities	House of the Oireachtas	Reference to contents of Communication	-

COM(2013)676 Communication from the Commission on evaluating national regulations on access to professions	Yes	EU Scrutiny Work Programme 2013 Joint Committee' Priorities	House of the Oireachtas	Reference to contents of Communication	-
COM(2016)820 Communication from the Commission on reform recommendations for regulation in professional services	Yes	Report to the Tánaiste and Minister for Justice and Equality, Ms Frances Fitzgerald TD from the Legal Services Regulatory Authority regarding Multi-Disciplinary Practices	Legal Services Regulatory Authority	Reference to Communication	-
European Consumer Agenda	Yes	EU Scrutiny Work Programme 2012 Joint Committee' Priorities	House of the Oireachtas	Reference to Communication	-
Consumer Programme 2014-2020	Yes	EU Scrutiny Work Programme 2012 Joint Committee' Priorities	House of the Oireachtas	Reference to Consumer Programme 2014-2020	-

2. General market information

2.1 Key market data

Table 5: Key market data

<p>General market situation (e.g. trends in the market, recent developments in the market, price fluctuations, etc.)</p>	<p>During the 1990s, a housing bubble developed in Ireland with property prices and rates of housing construction increasing rapidly. Between 1997 and 2007, residential and commercial property prices increased almost four-fold.⁵ This was made possible by a dramatic extension in the availability of credit.⁶ However, in 2007 the housing bubble burst leading to rapid falls in property prices, rates of construction and mortgage lending. According to the Irish Banking Federation (now the Banking and Payment Federation of Ireland) mortgage, lending in Ireland fell from a peak in excess of 200,000 residential loans in 2008 to less than 15,000 in 2011.⁷ The balance sheets of Irish banks declined, access to international finance markets effectively came to an end and Bank share prices fell dramatically. In 2008, the Government guaranteed Irish bank liabilities. This overreached the public finances and ultimately led to a bailout of the State by the Troika. The ensuing financial, social and economic crises were severe. With the onset of the recession, the number of households falling into arrears or calling upon the State social welfare support scheme for indebted homeowners, i.e. mortgage interest supplement, increased dramatically, as did applications for social housing support.⁸ At the end of 2013, Ireland exited the bailout program and since then the Irish economy began to grow once again. Indeed, house prices began to increase rapidly – rising in Dublin by about 50% from trough in 2010.⁹ In spite of popular opposition, the Central Bank of Ireland have introduced a range of macro prudential measures in 2015 aimed at restricting risky lending and dampening property price speculation. Limits have been set on loan to value and loan to income ratios.¹⁰</p>
<p>Total value of residential transactions for buying and renting for the year 2015 (2014 or 2013 depending on the latest available data) expressed in EUR</p>	<p>Buying: The total value of residential transactions for buying and selling for 2015 was approximately €10.7bn. This was an increase from €9.3bn in 2014 and €6.1bn in 2013. There were approximately 48,000 residential property market transactions in 2015.¹¹</p> <p>Renting: equivalent figures are not available for the private rented sector.</p>

⁵ Central Bank of Ireland, *Address by Deputy Governor Stefan Gerlach at the Berlin Finance Lecture, Berlin, 14 January 2013, Ireland: From Crisis to Recovery* (Dublin: Stationery office, 2013), p. 3.

⁶ P. Honohan, *The Irish Banking Crisis – Regulatory and Financial Stability Policy 2003-2008, - A Report to the Minister for Finance by the Government of the Central Bank*, (Dublin: Central Bank, 2010).

⁷ 'Mortgage Market Profile - Data Series 2005-2012' (Dublin: IBF/PwC, 2012). Data for 2013 was taken from 'IBF PwC Mortgage Market Profile Q4 2013' (Dublin: IBF/PwC, 2014), p. 2.

⁸ Department of the Environment, *Housing Needs Assessment 2011* (Dublin: Stationery Office, 2011), p. 1.

⁹ S. Gerlach, *The Return of Ireland's housing bubble* (July, 2016).

¹⁰ S. Gerlach, *The Central Bank of Ireland's macro prudential policy* (Oct, 2015).

¹¹ MyHome.ie, 'Property report' (Dublin: MyHome.ie, 2016), p. 6.

Table 5: Key market data

Ratio house owners – tenants (i.e. the percentage of households that are owners resp. tenants of dwelling units)	In 2016, 67.6% of households were homeowners as compared to 29% of households that rented. In Ireland, the rented sector is primarily divided into private renting, which accounts for 20% of total households, and households renting from local authorities, about 9% of total households. ¹²	
Usage of land (Quotas for built land, agricultural land, “wild land” (forests, lakes etc.))	Irish land cover is primarily agricultural (64% approx.), followed by bogs and wetlands and forestry (10% approx.). ¹³ The area of built land is approximately 2.3% of land cover. ¹⁴ In 2014, the Department of the Environment surveyed all lands zoned for residential development in statutory local authority development plans and local area plans across Ireland to determine the land available for residential development. The survey identified the area of such lands to be 17,434 hectares, which could theoretically enable the construction of over 414,000 dwellings. ¹⁵	
Average prices of residential property	<p><i>According to the type of property</i></p> <ul style="list-style-type: none"> • <i>Average flat of ca. 70 sqm</i> • <i>Terrace house of ca. 100 sqm</i> • <i>Detached (one family house) of ca. 150 sqm</i> 	<p>The primary source for house price data is the Central Statistics residential property price index (RPPI). The Residential Property Price Index (RPPI), is designed to measure the change in the average level of prices paid by households for residential properties sold in Ireland. The RPPI specifically excludes non-household purchases, non-market purchases and self-builds (i.e. where the land is purchased separately). The index is mix-adjusted to allow for the fact that different types of property are sold in different months. The RPPI is based on Revenue stamp duty returns, which has a 44 day submission deadline. This means that the RPPI for the latest two months is provisional and subject to revision.</p> <p>Data is published on national averages as well as regional averages and split into houses and apartments. However, the data does not map directly onto these questions. In particular, the price per square metre metric is not commonly used in Ireland and the data is not organised according to the type of property. However, it has been estimated that in 2014 average transaction prices for new dwellings per square metre in Ireland was roughly €2,000/m² nationwide and 4,000/m² in Dublin.¹⁶</p>

¹² Central Statistics Office, ‘Census of Population 2016 – Profile 1 Housing in Ireland’ (Dublin: Stationary Office, 2017). Available at <http://www.cso.ie/en/releasesandpublications/ep/p-cp1hii/cp1hii/tr/> (last accessed 22/5/17).

¹³ See Eurostat, ‘Agricultural census in Ireland’ (Brussels: Eurostat, 2012). Available at http://ec.europa.eu/eurostat/statistics-explained/index.php/Agricultural_census_in_Ireland (last accessed 22/5/17).

¹⁴ European Environmental Agency <https://www.eea.europa.eu/soer/countries/ie/land-use-state-and-impacts-ireland>

¹⁵ Department of the Environment, ‘Residential Land Availability Survey 2014’ (Dublin: Stationary Office, 2015), p. 2.

¹⁶ Deloitte, ‘Property Index – Overview of European Residential Markets 3rd edition, 2014 available at https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/property_index_2014_en.pdf (last accessed 22/5/17).

Table 5: Key market data

		According to the Central Statistics Office, in 2016 the average price paid for a dwelling nationwide was €243,000 (approx.). During the same period, the average price paid for a dwelling in Dublin was €394,000 (approx.). ¹⁷
	<p><i>According to the type of location:</i></p> <ul style="list-style-type: none"> • <i>Capital city</i> • <i>Urban areas</i> • <i>Rural areas</i> 	Property prices vary considerably across Ireland. Prices tend to be higher in urban areas than rural areas and highest in Dublin city. According to the Central Statistics Office, in 2016 the average price paid for a dwelling nationwide was €243,000 (approx.). During the same period, the average price paid for a dwelling in Dublin was €394,000 (approx.). ¹⁸ By contrast, the average price in the Border region was €113,730. ¹⁹
Price development of residential property	<p><i>According to the type of property</i></p> <p><i>Average flat of ca. 70 sqm</i></p> <p><i>Terrace house of ca. 100 sqm</i></p> <p><i>Detached (one family house) of ca. 150 sqm</i></p>	Between 1997 and 2007, residential and commercial property prices increased almost four-fold in Ireland. ²⁰ In 2007, the housing bubble burst with property prices falling by about a half. Since bottoming out, house prices have increased considerably, rising by 7.9% in 2016. ²¹
	<p><i>According to the type of location:</i></p> <ul style="list-style-type: none"> • <i>Capital city</i> • <i>Urban areas</i> • <i>Rural areas</i> 	Property prices vary considerably across Ireland. Prices tend to be higher in urban areas than rural areas and highest in Dublin city.
Development of price index (Housing price index if existing, otherwise Consumer price index)	Data is available from the Central Statistics Office, which maintains a Residential Property Price Index.	

¹⁷ Central Statistics Office, 'Residential Property Price Index January 2017' (Dublin: Stationary Office, 2017). Available at <http://www.cso.ie/en/releasesandpublications/ep/p-rppi/rppijan2017/> available last accessed 22/5/17).

¹⁸ Central Statistics Office, 'Residential Property Price Index January 2017' (Dublin: Stationary Office, 2017). Available at <http://www.cso.ie/en/releasesandpublications/ep/p-rppi/rppijan2017/> available last accessed 22/5/17).

¹⁹ Central Statistics Office, 'Residential Property Price Index January 2017' (Dublin: Stationary Office, 2017). Available at <http://www.cso.ie/en/releasesandpublications/ep/p-rppi/rppijan2017/> available last accessed 22/5/17).

²⁰ Central Bank of Ireland, *Address by Deputy Governor Stefan Gerlach at the Berlin Finance Lecture, Berlin, 14 January 2013, Ireland: From Crisis to Recovery* (Dublin: Stationery office, 2013), p. 3.

²¹ Central Statistics Office, 'Residential Property Price Index January 2017' (Dublin: Stationary Office, 2017). Available at <http://www.cso.ie/en/releasesandpublications/ep/p-rppi/rppijan2017/> available last accessed 22/5/17).

2.2 Service providers

Table 6: Service providers						
	Total number of firms	Total number of professionals	Total number of employees	Branch offices per firm	Market concentration in % of turnover	Average turnover per firm (expressed in EUR)
Estate agents	5,600 ²²	17,000 (est.)	54,000 (est.)	N/A	Very small	N/A
Lawyer/Advocates / Solicitor	2,200 ²³	9,200 solicitors ²⁴	18,000	N/A	Very small	€1.1 million ²⁵
Notary	N/A	150 (approx.)	(also practicing as solicitors)			
Licenced conveyancers	N/A	N/A	N/A	N/A	N/A	N/A
Architects	N/A	5,000 ²⁶	Very small % of their work is in residential sales market			
Surveyor	N/A		Extent to which their work is in residential conveyancing will vary			
Engineers	N/A	12,500 ²⁷	Very few would work mainly in existing residential property			

²² PSRA Licensed Property Services Providers

²³ Law Society of Ireland, 'The Solicitors' Profession: Contribution to the Irish Economy' (Dublin: Law Society of Ireland, 2014), p. 3.

²⁴ Law Society of Ireland, 'The Solicitors' Profession: Contribution to the Irish Economy' (Dublin: Law Society of Ireland, 2014), p. 3.

²⁵ Total turnover of the legal services sector in 2012 was estimated to be €2.46bn. Law Society of Ireland, 'The Solicitors' Profession: Contribution to the Irish Economy' (Dublin: Law Society of Ireland, 2014), p. 6.

²⁶ Law Society of Ireland, 'The Solicitors' Profession: Contribution to the Irish Economy' (Dublin: Law Society of Ireland, 2014), p. 7.

²⁷ Law Society of Ireland, 'The Solicitors' Profession: Contribution to the Irish Economy' (Dublin: Law Society of Ireland, 2014), p. 7.

3. Roles of professionals and services in the real estate market

Table 7: Role of professionals in the real estate market							
	Estate agent	Property valuator ²⁸	Lawyer/ Advocate/ Solicitor	Notary	Bank	Licensed conveyancer	Technical expert (architect, engineer, surveyor)
Main function: does the professional typically work independently or as part of a firm or another organisation?	Firm	Firm	Firm	Notaries do not play a significant role in the conveyancing system in Ireland. Unlike civil law jurisdictions, Irish law is not based on notarisation, but rather on the use of formal documents. These documents are drafted by solicitors who verify the identity of the parties involved. There is a profession of notaries in Ireland but in most cases, these notaries tend also to be solicitors.	N/A	See footnote ²⁹	Firm.
Sale	As above	As above	As above	-	-	-	Occasional
Purchase	As above	As above	As above	-	-	-	Occasional
Letting	As above		As above	-	-	-	-
Renting	As above		No	-	-	-	-
Extent of engagement (at which point(s) does each professional	It is usual for the seller to engage an estate agent at the outset.	Time of survey, just before contract.	When instructions received from agent	N/A	N/A	N/A	N/A

²⁸ In some EU countries, the real estate property valuers are regulated as a profession that is separate from estate agents (e.g. Hungary, Lithuania, Latvia); their services might be obligatory, especially when taking mortgage loans.

²⁹ There are no licenced conveyancers in Ireland. However, this may change in the near future with the passing of the Legal Services Regulation Act 2015.

Table 7: Role of professionals in the real estate market

intervene in the process?)							
Sale	As above		As above	-	-	-	
Purchase	As above	As above	As above	-	Mortgage application – may be introduced by agent, solicitor or mortgage broker	-	In event of structural problems/ development proposals
Letting	As above		As above	-	-	-	
Renting	As above		No	-	-	-	
Mandatory involvement	It is not mandatory to engage an estate agent.	Yes (Mortgage Credit Directive)	Yes	NA	NA	NA	No
How are their fees/ charges structured	Estate agents fees vary according to the value of the property but a fixed fee is often quoted. A rough estimate is between 1% and 2.5% of the property value, plus VAT.	Scale - % value	Conveyancing fees vary according to the value of the property but a fixed fee is often quoted. Fees range between 0.25% and 0.75% of property value. ³⁰	NA	Mortgage products and interest rates vary widely. The average interest rate on new mortgages in Ireland was 3.44% in March 2017. ³¹	NA	Costs vary according to the value of the property but a fixed fee is often quoted. A guiding range is from €250 for a basic survey to approximately €1,000 for a full structural survey.

³⁰ World Bank, Doing Business report available at <http://www.doingbusiness.org/data/exploreeconomies/ireland/registering-property>.

³¹ Central Bank of Ireland, Interest Rate Statistics March 2017 (Dublin: Stationary Office, 2017), p.1.

4. Land registration

Table 8: Land registration	
Responsible authority(ies) dealing with land registration	Property Registration Authority (http://www.prai.ie/)
Actors involved in the registration procedure and their main functions	Purchasers' solicitor usually acting for purchaser and bank in preparing transfer, mortgage and land registry application Vendor's solicitor or bank produces discharge of existing loan
Intermediate steps of the registration procedure	A priority entry preserves priority for the registration of the transfer/mortgage provided transfer lodged within priority period.

5. The process to buy or sell a property

5.1 Main steps in the transaction process to buy or sell a property

Table 9: Main steps of the process to buy or sell a property

Main steps	Main function	Applicable	National specificities/additional functions/main actors
Estate agent services	Matching the parties	Yes	Most vendors use high street estate agents; most purchasers usually rely on online agencies for searching for property; individual properties are generally marketed online but by high street agencies.
Alternative matching devices	Matching the parties	Unusual	Newspaper advertisement; personal contact
Preliminary contract	Securing the transaction before the final contract is concluded	Unusual	-
Preliminary checks (land register, administrative permits)	Ensuring that the buyer knows all legal obligations and relevant features related to the property	Yes	Solicitor
Drafting the sales contract and/or deed of conveyance	Summarising the agreement of the parties	Yes	Solicitor
Legal advice or counselling	Ensuring that the transaction is valid and that the parties know about their rights and duties	Yes	This is part of the standard instructions of a conveyancer.
Certification of signatures	Ensuring the validity of the agreement	Yes	Deeds required to be witnessed, not necessarily by practitioners.
Contract execution (transfer of payment)	Executing the contract (and securing that both parties perform their obligations)	Yes	Solicitor
Contract execution (transfer of property)	Executing the contract (and securing that both parties perform their obligations)	Yes	Solicitor, this process is known as completion.
Registration	Making the transaction visible to third parties and the public	Yes	Solicitor – usually the purchaser's conveyancer also acts for the bank.
Taxation (esp. transfer tax)	Creating revenue for the state	Yes	Stamp duty land tax must be paid before registration

Table 9: Main steps of the process to buy or sell a property

Post-transaction controls	Securing that the contract is duly executed	Yes	Solicitor carries out any post-completion steps; these may be required particularly with leasehold land
Other steps	Money laundering checks at the outset.	Yes	Money laundering checks at the outset.

5.2 Sale contract and transfer of ownership

Table 10: Contract of sale and transfer of ownership

Main steps	Actors involved per intermediate step; is the intervention of a professional service provider usual or mandatory?	Payment details ³²		Typical risks associated to these steps
		Payments expressed : • In EUR as % of total purchase price <u>and</u> • As a fixed amount if available (add if VAT applies)	When is the payment made	
Estate agent services or alternative matching devices	It is usual for an estate agency to be engaged by the vendor who will pay the agents fee.	Between 1% and 2.5% of the total purchase price plus VAT.	After closing the sale	The seller may accept another offer until the contracts are signed i.e. Gazumping.
Preliminary contract (usual)	It is unusual for a preliminary contract to be entered into	Total legal fees: between 0.25% and 0.75% of property value.	Completion statement includes all charges and disbursements and tax.	Lack of binding commitment; often dependent upon other transactions going ahead in a timely fashion.
Preliminary checks (land register, administrative permits)	It is usual for the buyer's solicitor to conduct preliminary checks.			

³² Payment shall be considered as the 'discharge of an obligation by its settlement equal to the monetary value of the debtor's obligation' while fees can be defined as 'a charge for services rendered' (Retrieved from: <http://www.investorwords.com/3634/payment.html>, <http://www.investorwords.com/1922/fee.html>). Payment, therefore, includes both the cost of the service and the fees for the service in question.

Table 10: Contract of sale and transfer of ownership

Drafting the sales contract and/or deed of conveyance	It is usual for the seller's solicitors to draft the sale contract using the standard conditions for sale provided by the Law Society.			
Legal advice or counselling	It is usual for the buyer and the seller to be independently represented by solicitors.			Mainly practical administrative issues
Certification of signatures	It is usual for the solicitors for the respective parties to certify this using duplicate copies of the contract.			
Contract execution (transfer of payment and registration; transfer of property)	It is usual for the solicitors to complete the execution of the contract. Once the vendor signs both copies and returns one to the buyer's solicitor there is a binding contract.			
Registration in land register or similar device	It is mandatory to update the land register and the buyer's solicitor will usually complete this.	€800		
Taxation (esp. transfer tax)	Stamp duty is charged on the instruments used in the transfer of property. The buyers solicitor will usually arrange for payment.	Stamp Duty Land Tax: 1% on purchases under €1 million, 2% on purchases over €1 million.		

▲ **Legal position of a tenant occupying the dwelling to be sold. In particular: Does the rule *emptio non tollit locatum* apply?**

Property is usually sold with vacant possession, unless it is investment property. The vendor therefore serves notice to quit on any tenant and the tenant vacates before the land is sold. If the property is sold subject to a lease, the lease binds because it is a legal estate in the land and short leases override the register. The purchaser may serve notice on the tenant. The period of notice required in the private rented sector varies according to the length of the tenancy.

Length of tenancy	Notice that the landlord must give
Less than 6 months	4 weeks (28 days)
6 months or longer but less than 1 year	5 weeks (35 days)
1 year or longer but less than 2 years	6 weeks (42 days)
2 years or longer but less than 3 years	8 weeks (56 days)
3 years or longer but less than 4 years	12 weeks (84 days)
4 years or longer but less than 5 years	16 weeks (112 days)
5 years or longer but less than 6 years	20 weeks (140 days)
6 years or longer but less than 7 years	24 weeks (168 days)
7 years or longer but less than 8 years	28 weeks (196 days)
8 years or longer	32 weeks (224 days)

Land Registry Fees

Value consideration (€)	Fee €
Up to €50,000	€400
€50,001 - €200,000	€600
€200,001 – 400,000	€700
Greater than €400,000	€800

5.3 Professional services performed in the real estate market related to buying and selling a property

Table 11: Professional services performed in the real estate market related to buying and selling a property

Services in the real estate market	Minimum standards for information provided by law	Service providers involved	Quality of involvement (mandatory, optional; if optional: usual or not)	Fees expressed: <ul style="list-style-type: none"> • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)
Estate agent services or alternative matching devices	All estate agents legally operating in Ireland are regulated and licensed by the Property Services Regulatory Authority (PSRA). The PSRA issues a code of practice, which licenced agents must adhere to.	Estate Agent	Optional and usual	Estate agents fees are usually charged as a percentage-based commission – usually between 1% and 2.5%, plus Value Added Tax.
Provision of mandatory information before the start of the transaction	Section 2 of the Code of Practice for Property Service Providers (Auctioneers and Estate Agents) outlines information, which should be provided to the client before the start of the transaction. An agreement for the provision of a service must be in writing and the terms must be lawful,	Estate Agent	Optional and usual	As above

Table 11: Professional services performed in the real estate market related to buying and selling a property

	fair and reasonable and include the name, trade name, address and contract details of the service provider; the address/description and title if known of the subject property; the advised value; the amount of fee or commission; the amount of any promotional budgets detailing all outlays; duration of the agency contract and rights of termination etc.			
Preliminary contract (usual)	-	Not usual	-	-
Preliminary checks (land register, administrative permits)	-	Solicitor	It is theoretically possible to employ a solicitor just to draft documents and not to provide advice, but this would be extremely unusual.	Conveyancing fees vary ranging between 0.25% and 0.75% of property value.
Drafting the sales contract and/or deed of conveyance	Basic formality requirements apply under LASPOA 2009. In practice, the Law Society of Ireland issues standard conditions of sale (2017 Edition) ³³ . The standard conditions of sale outline the details of the parties to the contract, the nature of the transaction (e.g. whether by private sale or auction), a spouse/civil partner consent provision, information relating to the property e.g. services to the property etc. Standard conditions relating to title, delay, dispute resolution, etc.	Seller's solicitor will usually draft the contract of sale; buyer's solicitor will check the contract.		
Legal advice or counselling	-	Solicitor		
Certification of signatures	-	Solicitor		

³³ Law Society of Ireland, Conditions of Sale 2017 Edition (Dublin: Law Society of Ireland, 2017). Available at <http://gsba.ie/main/wp-content/uploads/2017/01/Conditions-of-Sale-2017.pdf> (last accessed 22/5/17).

Table 11: Professional services performed in the real estate market related to buying and selling a property

Contract execution (transfer of payment; transfer of property)	-	Solicitor		
Registration in land register or similar device	<p>Registration is prescribed by ROTA 1964. The following information is available from the Land Registry.</p> <p>Names Index: A record of the names and addresses of every Registered Owner. The index is kept in respect of each county and shows the folio number(s) corresponding to the name.</p> <p>Folio: This is a part of the register with its own distinct number on which details of the property, its ownership and any burdens affecting it appear.</p> <p>Map: Original Ordnance Survey and other maps with all registered property delineated thereon are maintained in the Registry.</p> <p>Instrument: When a Dealing is finally completed, the title documents retained here are called Instruments. They bear the number which they were given when they were lodged as Dealings e.g. D2012LR005555X.</p> <p>A search by members of the public is subject to a fee – €2.00 for each name, for each county, for each period of ten years or part thereof.</p>	Solicitor; Property Registry Authority	Mandatory	Approximately €800
Taxation (esp. transfer tax)	-	Solicitor	-	-

5.4 Creating a Mortgage

Table 12: Mortgage requirements

Main steps to create a mortgage	Actors/institutions involved	Minimum standards for information	Additional requirements for consumer mortgages	Fees expressed: • In EUR as % of total purchase price and • As a fixed amount (if available)	Typical risks associated to these steps
Conclusion of credit and mortgage agreement with lender (bank)	Reference is usually made by agent/ solicitor/ mortgage broker. Bank must provide information in ESIS. Purchaser's solicitor/licensed conveyancer usually acts for bank in creation of security (a legal charge).	Minimum standards for information are set out in the Consumer Credit Act 1995; the EU (Consumer Mortgage Credit Agreements) Regulations 2016, as well as the various Consumer Protection Codes issued by the Central Bank of Ireland. For example, under the EU (Consumer Mortgage Credit Agreements) Regulations 2016, the lender must provide the tenant with information as part of the European Standardised Information Sheet. This includes the name, contact details, address of the lender; (where applicable) details of the credit intermediary; the	Loan to income and loan to value limits are set by the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015 S.I. No. 47/2015. Lenders have detailed lending handbooks. Regulatory bodies also have detailed conduct rules.	Fees vary but the figures that follow are broadly representative: Valuation Fee: €155 (approx.) Release or Vacate of Mortgage Fee: €38 (approx.) Arrangement fee: approximately 0.5% of the total cost of the mortgage Legal fee included in purchase.	Mortgage fraud involves the making of a mortgage application using false or misleading information.

Table 12: Mortgage requirements

		main features of the loan e.g. amount, currency, type of loan, etc.; interest rate and other costs; frequency and number of payments; amount of each instalment; (where applicable) illustrative repayment table; additional obligations; early repayment; rights of the borrower; dispute resolution procedures etc.			
Insertion of mortgage in the land register, usually at first rank	Solicitor	-	-	No separate fee if lodged with transfer	-
Credit sum paid to mortgagor (buyer) or seller	Vendors solicitor	Completion statement	-	Included in conveyancing	-

6. The process to rent or let a property

6.1 Main steps in the transaction process to rent and let a property

Table 13: Main steps of the process to rent and let a property

Main steps	Process involved ³⁴
Finding and matching landlords and tenants	<p>In Ireland, renting is divided sectorally into private renting and public/social renting.</p> <p>In the private rented sector, there are a variety of ways by which parties to a tenancy may be matched. Generally, where the landlord wishes to fill a vacancy the usual practice is for the landlord to advertise the vacancy through one or more media outlets. Traditionally, local print media provided the most effective means of finding a tenant, with local papers containing sections dedicated to advertising accommodation vacancies. Another traditional means of finding a tenancy was through advertising the vacancy via a letting agent or estate agent or in the local papers classified sections. While such means of finding a tenant remain in use, the vast majority of landlords now find tenants through dedicated online tenancy advertising websites such as daft.ie, let.ie, rent.ie and myhome.ie as well as gumtree.ie. Such websites allow the landlord to post a vacancy along with pictures and a short description. Prospective tenants then have the opportunity to contact the landlord and arrange a viewing.³⁵</p> <p>In the public or social rented sector, the prospective tenant must make an application for social housing support to the local housing authority. Eligibility for social housing depends upon an applicant satisfying income criteria, and applicants must not have suitable alternative accommodation. Once an applicant has been declared eligible for social housing their application is added to an available housing waiting list. Eventually a qualified applicant may be allocated housing and if accepted the applicant will enter into a tenancy agreement with the local authority.³⁶</p>
Information search by landlords or tenants (e.g. about salary, outstanding debts)	<p>There are a number of checks, which the landlord can perform on the personal and financial status of the tenant. Prior to letting a dwelling, the landlord will often be concerned as to whether or not the tenant will be able to honour the tenancy agreement. In order to reduce some of the risk arising from this interaction the landlord or letting agency will often seek to carry out a range of checks on the tenant. These checks usually include credit referencing, bank referencing, employment referencing, and landlord referencing as well as personal referencing. There is nothing in law to prevent a landlord from asking for a salary statement but s/he cannot compel the prospective tenant to produce one. However, such a refusal may adversely affect the tenants standing. In addition to direct enquiries from the tenant the landlord may resort to a credit information agency, however such practice would not be usual.</p> <p>In the public or social rented sector, following receipt of the application the housing authority will assess whether the applicant is eligible for social housing. In order to be eligible an applicant will have to satisfy an income test and will have to show that</p>

³⁴ Explain more precisely to what extent each step is relevant and how the step is performed

³⁵ M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), pp 112-113.

³⁶ M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), p. 35.

Table 13: Main steps of the process to rent and let a property

	they do not have suitable alternative accommodation. Once the applicant has been determined eligible for social housing support the authority will then assess whether the housing is in need of social housing. This involves the authority assessing the current accommodation of the applicant. ³⁷
Inspection of the property by tenants (in some cases with the help of professionals)	The tenant will usually view the property before agreeing to the tenancy.
Delivery of mandatory information to tenants prior to the conclusion of the contract	Landlord or estate agent will provide information
Delivery of energy performance certificate to tenant	From 1 January 2009, a Building Energy Rating certificate became compulsory for all homes being sold or offered for rent and a seller or landlord is required to provide a Building Energy Rating certificate to prospective buyers or tenants when a home is constructed, sold or rented ³⁸
Provision of additional guarantees to landlord	This is often required, e.g. the parents of students.
Conclusion of the contract in the usual form (e.g. oral, written, preformulated)	It is possible to create a tenancy orally but a tenancy with a term longer than a year must be created in writing. In all cases however the landlord, whether private or social, must provide the tenant with a rent book which is a document setting out the key details of the tenancy arrangement. ³⁹ The rent book must include the address of the rented dwelling, the name and address of the landlord and his agent, the name of the tenant, the terms of the tenancy, the amount of rent, when and how it is to be paid, (e.g. cash, cheque, standing order), details of other payments (e.g., telephone, TV) and the amount and purpose of any deposit paid and the conditions under which it will be returned to the tenant as well as a statement of information on basic rights and duties of landlords and tenants. If the landlord fails to provide a rent book, he will be guilty of an offence. ⁴⁰ Therefore although it is possible to create an oral tenancy the effect of the rent book requirements is that the landlord will invariably provide the tenant with written documents ⁴¹
Rent payment and deposit (e.g. bank account)	The method of payment is up to the parties (direct debit usually required) however the tenant must be provided with a rent book containing the relevant payment details. A security deposit is normally paid by a tenant to a landlord or agent at the commencement of a tenancy. The landlord or agent hold the deposit of the duration of the tenancy and at the end of a tenancy the landlord, or their agent, is under a duty to return the deposit within a reasonable timeframe. The function of the deposit is

³⁷ M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), p. 114.

³⁸ M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), p. 72.

³⁹ Housing (Rent Book) Regulations 1993, SI No. 146/1993.

⁴⁰ Housing (Rent Book) Regulations 1993 (SI No. 146/1993) as amended by Housing (Rent Books) Regulations 1993 (Amendment) Regulations 2004 (SI No. 751/2004) and by Housing (Rent Books) Amendment) Regulations 2010 (SI No. 357/2010).

⁴¹ M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), p. 122.

Table 13: Main steps of the process to rent and let a property

	<p>to provide security for the landlord in the event that the tenant fails to fulfil their obligations under the tenancy e.g. damage to the property. The landlord is responsible for managing the deposit during the duration of the lease. There are no provisions requiring special treatment of the deposit fund during this time. The tenant is entitled to return of the deposit in a timely fashion after the expiry of the lease. The majority of disputes before the Private Residential Tenancies Board concern allegations of illegal retention of the deposit.⁴²</p>
<p>Registration of the contract in the land register (e.g. excluded, optional or mandatory; if optional: usual and/or recommendable)</p>	<p>Private landlords are obliged to register any tenancy of a dwelling rented by them with the Residential Tenancy Board. The landlord must register the tenancy within one month of commencement. In order to register the landlord must submit an application along with €90 fee. The Private Residential Tenancies Board has powers to enter and inspect a dwelling for the purposes of determining whether any particular specified in the application for registration is correct. Where a landlord fails to register the tenancy then she will be unable to avail of the dispute resolution services of the Board and, in addition, the errant landlord may face prosecution by the Board for failing to register after being warned.</p>

⁴² M. Jordan, 'Tenlaw National Report for the Republic of Ireland' (Bremen, ZERP, www.tenlaw.unibremen.de, 2014), p. 143.

6.2 Rent contract

Table 14: Rent contract

Main steps	Actors involved per intermediate step	Payment details ⁴³		Typical risks associated to these steps
		Payments expressed : • In EUR as % of total purchase price <u>and</u> • As a fixed amount if available (add if VAT applies)	When is the payment made	
Finding and matching the parties	The landlord may choose to organise the letting herself/himself i.e. advertising the property on a lettings website etc. and organising viewings etc. Alternatively, s/he may hire an estate agent to advertise the property and manage the letting.	A tenant cannot be required to pay the cost of letting of a property, unless the tenant employs the estate agent separately. ⁴⁴ The cost of advertising a property to let varies. For instance, Daft.ie prices range from €45 to €175 for a 90-day advert. Contracting with a letting agent to manage the letting is more expensive. CapelAbbey fees for letting a property is 6.25% of the annual rent plus VAT.	The price of advertising the property is usually paid before the property is advertised/estate agent property management fees may be paid in advance or following the letting of the property.	Poor quality accommodation Unsuitable tenant
Information search by landlord on tenant (e.g. about salary, outstanding debts)	The landlord may request a credit check are possible but don't tend to be usual.	The price of getting a credit report is approximately €6.35 with Experian.	Prior to the report being completed.	
Inspection of the property by tenant (in	Either the landlord or the estate agent, as the case may be, will usually organise a	NA	NA	Need careful inventory

⁴³ Payment shall be considered as the 'discharge of an obligation by its settlement equal to the monetary value of the debtor's obligation' while fees can be defined as 'a charge for services rendered' (Retrieved from: <http://www.investorwords.com/3634/payment.html>, <http://www.investorwords.com/1922/fee.html>). Payment, therefore, includes both the cost of the service and the fees for the service in question.

⁴⁴ Property Services (Regulation) Act 2011, s. 90.

Table 14: Rent contract

some cases with the help of professionals)	viewing with the tenant prior to the letting.			
Delivery of mandatory information to tenant prior to the conclusion of the contract	The landlord is not under an obligation to provide general information to the tenant prior to conclusion of the contract. The usual practice is that the landlord and tenant will agree terms before the landlord will organise a tenancy agreement.	NA	NA	
Delivery of energy performance certificate to tenant	Letting agent A Building Energy Rating (BER) certificate is compulsory for all homes being offered for rent and a landlord is required provide a Building Energy Rating certificate to prospective buyers or tenants when a home is constructed, sold or rented.	BER assessment costs vary, an indicative range is from €120 to €140. ⁴⁵	The owner of the property must pay for the BER assessment to be carried out in order for a Building Energy Rating Certificate to be provided.	
Conclusion of the contract in the usual form (e.g. oral, written)	Letting agent – always in writing			
Rent payment and deposit (e.g. bank account)	Direct debit invariably required			
Registration of the contract in the land register or other device (excluded, optional or mandatory)	The tenancy must be registered with the Residential Tenancies Board within one month of commencement	The following registration fees apply. A. If the tenancy commenced on or after the 1/1/2011: €90 per tenancy; a late fee of €180 applies; €375 (composite fee) for multiple tenancies in the one building	One month after commencement of the tenancy	Failure to register

⁴⁵ <http://www.ber4less.ie/costs.php> (last accessed 22/5/17).

Table 14: Rent contract

		B. If the tenancy commenced on or before 31/12/2010: €70 per tenancy; a late fee of €140 applies; €300 (composite fee) for multiple tenancies in the one building	
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6.3 Professional services performed in the real estate market related to renting and letting a property

Table 15: Professional services performed in the real estate market related to renting and letting a property

Services in the real estate market	Minimum standards for information provided by law	Service providers involved	Quality of involvement (e.g. mandatory; exclusive rights)	Fees expressed: <ul style="list-style-type: none"> • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)
Finding and matching landlords and tenants	The Property Services Regulatory Authority issues a Code of Practice for Property Services Providers which provides minimum standards	Rental agency	The landlord may contract with an estate agent to find and match tenants, but this is not mandatory and the landlord may find tenants directly.	Estate agent fees vary depending on the property, location, services provided etc but a rate of 8% of the annual rental income from each property would be typical for a lettings management arrangement
Information search by landlords or tenants (e.g. about salary, outstanding debts)	Data protection rules	Rental agency	The landlord may request the tenant provide information about salary, debts but this is not usual	N/A
Inspection of the property by tenants (in some cases with the help of professionals)	Defects should be disclosed, failure leads to rescission	Rental agency	It is usual for the tenant to inspect the property. This will usually be facilitated by either the landlord or the estate agent.	N/A
Delivery of mandatory information to	Rent book with payment details must be provided to the tenant	Rental agency	The landlord may provide this herself/himself or if an estate agent has been	N/A

Table 15: Professional services performed in the real estate market related to renting and letting a property

tenants prior to the conclusion of the contract			retained by the landlord then the estate agent will provide this.	
Conclusion of the contract in the usual form (e.g. oral, written, preformulated)	In writing	Rental agency	The landlord may provide this herself/himself or if an estate agent has been retained by the landlord then the estate agent will provide this.	N/A
Rent payment and deposit (e.g. bank account)	Rent book with payment details must be provided to the tenant	Rental agency	The landlord may arrange this herself/himself or if an estate agent has been retained by the landlord then the estate agent will arrange this.	N/A
Registration of the contract in the land register (e.g. excluded, optional or mandatory)	The tenancy must be registered with the residential tenancies board and the fees are set out above at 6.2.	Rental agency	The landlord may arrange this herself/himself or if an estate agent has been retained by the landlord then the estate agent will arrange this.	N/A

7. Professional services regulation: notaries

7.1 Market entry and structure regulation

Table 16: Market entry and structure regulation

	Regulation	
Subjective requirements	<i>Qualifications (diplomas, exams, concours) required to become a notary in your country:</i>	There are three stages to becoming a notary in Ireland. First, the candidate must comply with relevant provisions of the Notaries Public Education, Training and Examination Regulations 2007-2014. Second, the candidate must attend the Notarial Professional Course/Diploma in Notarial Law & Practice. Third, the applicant must make a formal Petition to the Chief Justice of Ireland in open Court on a Notice of Motion (to which the Faculty is a notice party as is the Law Society of Ireland).
Objective requirements	<i>Do numerus clauses and other objective requirements exist?</i>	There is no quota
Citizenship requirements	<i>Are foreign candidates admitted de iure and also de facto under the same conditions as nationals?</i>	Yes
Inter-professional cooperation	<i>Are forms of collaboration between notaries and other professionals allowed and usual?</i>	Almost all are solicitors; barristers are not permitted to be notaries
Business structure	<i>Are notary associations/corporations allowed?</i>	Most work in solicitor's practices; their main function is to witness signatures in apostilles
Geographical limitations	<i>Are there limitations with respect to the area in which the notary can exercise his/her activities (e.g. at the regional or municipal level)?</i>	No
	<i>Are these limitation restricted to specific tasks?</i>	No

7.2 Market conduct regulation

Table 17: Market conduct regulation

	Regulation	
Exclusive rights	<i>For which transactions or parts of them only notaries may act against payment.</i>	<p>Unlike civil law jurisdictions, Irish law is not based on notarisation, but rather on the use of formal documents. These documents are drafted by solicitors who verify the identity of the parties involved. Notaries do not play a significant role in the conveyancing system in Ireland. Conveyancing is done by solicitors and there is no requirement to involve a notary.</p> <p>It is possible to become a notary in Ireland. The Faculty of Notaries Public in Ireland promotes and regulates the profession of notary public in Ireland. However, there is no national regulatory body for notaries, as notaries are self-regulated and issuing Codes of Conduct for Notaries Public and Notaries Public Professional Practice Regulations 2015, which set standards in relation to professional services, fee charging and advertising etc.</p> <p>The intervention of a notary is not required for the registration procedure. Notaries public are required to hold public liability insurance. The limit of indemnity is a matter for the notary to decide taking into account the level of risk they consider they are exposed to and any contractual requirements they have. The Blackfriars Group Insurance indicates that 'common limits are €1.3M, €2,6M and €6.5M'.</p> <p>The Faculty of Notaries Public in Ireland requires that a Notary Public takes part in continuing education (Continuing Professional Development (CPD) for Practising Notaries). In particular, a Notary Public must receive a credit of not less than 2 CPD hours on an annual basis.</p> <p>The Professional Practice Regulations 2015 state Notary "may advertise the fact that he or she is a Notary Public, provided that any such advertisement shall be restrained and dignified in its presentation and shall be confined to providing information as to the name and address and other contact details of the Member and the Notarial Services offered."</p> <p>There are no fixed fees for notarial services. Notary fees are not calculated as a percentage of the transaction value.</p>
Duty to provide services	<i>Are notaries allowed to refuse a request to act?</i>	
Professional standards	<i>How are professional standards regulated? What are the tasks of the professional representation (e.g. Chamber of Notaries) in this context?</i>	
Mandatory intervention	<i>Is the intervention of a notary required for the registration procedure?</i>	
Compulsory indemnity insurance	<i>Is indemnity insurance compulsory? If yes, what is the indicative amount of the insurance?</i>	
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory?</i>	
Advertising restrictions	<i>Are there limitations on advertising?</i>	
Fee regulation	<i>Fees system</i>	

8. Professional services regulation: lawyers or other licensed conveyancers (only relevant if legally admitted to perform real estate transactions and/or to assist the conclusion of tenancy agreements)

8.1 Market entry and structure regulation

Table 18: Market entry and structure regulation

Table 18: Market entry and structure regulation		
	Regulation	
Subjective requirements	<i>Conditions (diplomas, exams, concours) required to become a lawyer in your country.</i>	There are five stages to becoming a solicitor in Ireland. First, candidates must pass a preliminary examination. University graduates from Ireland and the UK are exempt automatically while foreign graduates may apply for an exemption. Second, candidates must pass the Final Examination – First Part (FE-1). This is the entrance examination to the Law Society of Ireland and consists of eight exams. Third, after passing the FE-1 exam, trainees need to complete a period of in-office training for 24 months. Fourth, during the period of in-office training, candidates must pass Professional Practice Course I, and II. Fifth, once all education and training requirements have been met, the trainee may apply to have their names entered in the Roll of Solicitors.
Objective requirements	<i>Do numerus clauses and other objective requirements exist?</i>	There is no numerus clauses. Entry conditions and the conditions for conversion are set by the Law Society of Ireland. These are outlined in the subsequent questions.
Citizenship requirements	<i>Are foreign candidates admitted de iure and also de facto under the same conditions as nationals?</i>	Foreign lawyers who wish to practice in the Republic of Ireland need to meet certain conditions. Candidates qualified in certain countries must pass a conversion test, the Qualified Lawyers Transfer Test. Solicitors qualified in England, Wales or Northern Ireland are not obliged to pass but must apply for a Certificate of Admission (€300). Nationals from other EU Member States may be able to register as a foreign qualified solicitor under the Establishment Directive 98/5/EC (€350). A registered lawyer can seek to be admitted as a solicitor in one of three ways. First, by passing the Qualified Lawyers Transfer Test (QLTT). This consists of five written papers and an oral examination in professional conduct. Second, a registered lawyer can be admitted without having to pass the QLTT where s/he can demonstrate that s/he has effectively and regularly" pursued "an activity in the law of the State" for a period of three years. Third, a registered lawyer can be admitted without having to pass the QLTT where s/he can demonstrate that s/he has effectively and regularly" pursued "a professional activity" for a period of three years, even if there is a lesser period of "activity in the law of the State".

Table 18: Market entry and structure regulation

Inter-professional cooperation	<i>Are forms of collaboration between lawyers and other professionals allowed and usual?</i>	It is not permissible for a solicitor to carry on private practice in Ireland in association with a non-solicitor. This may change with the passing of the Legal Services Regulation Act 2015.
Business structure	<i>Are lawyer associations/corporations allowed?</i>	Solicitors may enter partnerships, but only with other solicitors. This may change with the passing of the Legal Services Regulation Act 2015. In particular, the Act may lead to the introduction of limited liability partnerships.
Geographical limitations	<i>Are there limitations with respect to the area in which the lawyer can exercise his/her activities (e.g. at the regional or municipal level)?</i>	No
	<i>Are these limitation restricted to specific tasks?</i>	N/A

8.2 Market conduct regulation

Table 19: Market conduct regulation

	Regulation	
Exclusive rights	<i>For which transactions or parts of them only lawyers may act against payment</i>	Section 58 of the Solicitors Act 1954 provides that only solicitors in private practice can offer conveyancing services to the public for payment.
Neutrality	<i>Is the lawyer allowed to act on behalf of both parties involved in the transaction? In</i>	Rule 3.3. of the solicitor's Code of Conduct 2012 prohibits a solicitor from acting for both sides in a conveyancing transaction. ⁴⁶

⁴⁶ Law Society of Ireland, 'A Guide to Good Professional Conduct for Solicitors' 3rd edn (Dublin: Law Society of Ireland, 2013), para. 3.3.

Table 19: Market conduct regulation

	<i>this case, what type of fees apply and which party has to bear them?</i>	
Duty to provide services	<i>Are lawyers allowed to refuse a request to act?</i>	Yes (a situation unlikely to arise unless there is a conflict of interest)
Professional standards	<i>How are professional standards regulated? What are the tasks of the professional representation (e.g. Chamber of Lawyers/Advocates) in this context?</i>	Professional standards have been regulated by the Law Society of Ireland (self-regulation). However, the Property Services Regulation Act 2015 has established the Property Services Regulation Authority, which will take over responsibility for regulation in many areas.
Compulsory indemnity insurance	<i>Is indemnity insurance compulsory? If yes, what is the indicative amount of the insurance?</i>	Yes, the Law Society of Ireland has set a minimum level of cover of €350,000 each and every claim, excluding costs and expenses.
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory?</i>	Yes. Solicitors are required to complete 20 hours of CPD programs annually, which must comprise the minimum requirements in both management and professional development skills and regulatory matters. The Law Society Professional Training runs continuing professional development (CPD) programs (diplomas etc.). There are three different ways of undertaking the minimum 2017 CPD requirement including Group Study, eLearning, writing relevant material that is published.
Advertising restrictions	<i>Are there limitations on advertising?</i>	Advertising by solicitors is subject to regulation. Any advertisement must not encourage personal injury litigation. Advertising should be couched in terms, which do not give offence to members of the public or to members of the profession or bring the profession into disrepute.
Fee regulation	<i>Lawyer fee system</i>	Fees are agreed between the parties but are liable to taxation i.e. assessment for fairness.

9. Professional services regulation: estate agents

9.1 Market entry and structure regulation

Table 20: Market entry and structure regulation

	Regulation	
Subjective requirements	<i>Qualifications (level and duration of education and training, diplomas, exams, traineeships or professional experience requirements, concours) required to become an estate agent in your country. Other access requirements for a professional (such as compulsory membership in professional bodies/compulsory registration, minimum age requirements, clean criminal record, etc.)</i>	Property service providers (estate agents, etc.) must be licenced by the Property Services Regulatory Authority. Applicants for a licence must meet certain minimum qualification requirements ⁴⁷ including a minimum academic qualification (the Property Services Regulatory Authority have a certified list of courses as well as key criteria ⁴⁸), lawful experience for 3 years of the previous 5 year period or the applicant has other qualifications or experience which satisfies the authority that he is suitable to provide the property service.
Objective requirements	<i>Do numerus clauses and other objective requirements exist?</i>	No
Licence requirements	<i>Are estate agents licenced or do they work as employees?</i>	Estate agents must be licenced.
Citizenship requirements	<i>Is unlimited access to the profession granted to foreign professionals de iure and de facto?</i>	Yes
Inter-professional cooperation	<i>Are estate agents allowed to exercise another profession or business activity? Is inter-professional cooperation regulated?</i>	Yes. Estate agents may exercise a broad range of functions including acting as Auctioneers/Estate Agents, Letting Agents and management Agents.
Business structure	<i>Share of estate agent acts acting as sole practitioners and as companies (if data are available)? Can the agent be employed by another agent or establish a partnership with other agents? Are there any restrictions on the corporate structure of a real estate enterprise (such as voting rights reserved to qualified members of a profession, shareholding requirements etc.)?</i>	This information is not available Yes No

⁴⁷ Property Services (Regulation) Act 2011 (Qualifications) (Amendment) Regulations 2015.

⁴⁸ Property Services Regulatory Authority 'Guide to becoming a licensed property services provider' (Dublin: Stationary Office, 2017), para. 4.2.

Table 20: Market entry and structure regulation

Geographical limitations	<i>Are there limitations with respect to the area in which the estate agent can exercise his/her activities (e.g. at the regional or municipal level)?</i>	No
	<i>Are these limitation restricted to specific tasks?</i>	The Authority issues four different types of licence for four different types of property services including the auction of property other than land, purchase/sale of land, letting of land and provision of property management services.

9.2 Market conduct regulation

Table 21: Market conduct regulation

	Regulation	
Neutrality	<i>Is neutrality regulated? Is the agent allowed to act on behalf of both parties involved in the transaction? In this case, what type of fees applies and which party bears these?</i>	Under the Code of Practice for Property Service Providers property services providers cannot place themselves in a position where they have a conflict of interest. Where a provider identifies the existence, or potential existence, of a conflict s/he should inform the person for whom s/he is in writing of the circumstances and seek their informed consent.
Professional standards	<i>How are professional standards regulated? Are entities or associations ensuring the professional representation and respect of rules of good practice (e.g. association of real estate professionals)?</i>	The Property Services Regulatory Authority is responsible for regulating professional standards. The Authority licenses providers and issues codes of practice. The Authority has a compliant investigation and resolution function and can also take enforcement proceedings against service providers.
Compulsory indemnity insurance	<i>Is indemnity insurance compulsory for estate agents? If yes, what is the indicative amount of the insurance?</i>	A service provider must have professional indemnity insurance in order to be licensed by the Authority. The value of the indemnity insurance will vary according to the size of the practice.
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory? What are the requirements related to the content and duration of continuing education? What are the consequences of non-compliance?</i>	Continuing education is not mandatory. There is limited information on forms of continuing education.

Table 21: Market conduct regulation		
Advertising restrictions	<i>Are there limitations on advertising?</i>	Property Services Providers should not publish or cause to be published any material or advertisements that are false, misleading or dishonest. Any advertising material must take notice of advertising codes as well as consumer legislation
Fee regulation	<i>Estate agents' fee system</i>	The fee is agreed between the service provider and the other party. The Code of Practice requires clients to notify their clients in writing of any fees and outlays payable as well as the means by which fees may be calculated prior to an agreement being entered into. The Code provides that the method by which fees are calculated must be transparent and, where not readily understood, must be explained to the client. ⁴⁹
Compulsory membership in professional bodies/compulsory registration	<i>Is membership in professional bodies compulsory? If so, what are the membership conditions and the membership fees? Does the professional body have a supervisory or another important regulatory role?</i>	Service providers must be licenced by the Property Services Regulatory Authority. The licence fee is determined by the Class of Property Services Provider that the applicant belongs to and is unaffected by the category or number of services being licensed. ⁵⁰ Class of Property Services Provider Licence fee: Company €1,000 Independent Contractor €1,000 Partnership €1,000 Sole Trader €1,000 Principal Officer €100 Employee €100

⁴⁹ Property Services Regulatory Authority, Code of Practice for Property Service Providers (Dublin: Stationary Office, 2007), para. 2.5.

⁵⁰ Property Services Regulatory Authority 'Guide to becoming a licensed property services provider' (Dublin: Stationary Office, 2017), para. 4.8.

10. The real estate market

10.1 Transaction costs for sample transactions

Table 22: Transaction costs VAT excluded

	Estate agent ⁵¹	Technical services (if usual)	Legal services	Land register fee	Transfer tax/stamp duty	Total usual transfer costs
€100,000 sales price (no mortgage)	€1,500	N/A	€500	€600	€1,000	€3,600
€100,000 sales price + 100,000€ mortgage	€1,500	N/A	€500	€600 (+ €175)	€1,000	€3,775
€250,000 sales price (no mortgage)	€3,750	N/A	€1250	€700	€2,500	€8,200
€250,000 sales price + 250,000€ mortgage	€3,750	N/A	€1250	€700 (+ €175)	€2,500	€8,375
€500,000 sales price (no mortgage)	€7,500	N/A	€2,500	€800	€5,000	€15,800
€500,000 sales price + €500,000 mortgage	€7,500	N/A	€2,500	€800 (+ €175)	€5,000	€15,975
%VAT applicable	23%		23%			

⁵¹ An agent usually receives a percentage of the transaction value.

10.2 Transaction features

Table 23: Transaction features

Transaction / service	Party bearing the costs of intermediation service (buyers or sellers, landlords or tenants) Costs expressed: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)	Fees as expressed in the contract: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)	Possible hidden costs faced by buyers or tenants
Estate agents	Seller, 1.5% of selling price	For sole agency typically 1.5% of selling price	VAT
Letting agent	Landlord, typically one month's rent	Typically one month's rent	Tenant often charged administration fee – this is to be abolished
Technical services	Buyer	Scale	Beneficial to have a full survey
Legal services	Each party, total legal fees: between 0.25% and 0.75% of property value	Almost all conveyancers quote a fixed price.	VAT, disbursements, stamp duty, registration fees
Land register fees	Buyer, €800	Scale	More expensive if first registration/leasehold etc.
Taxes on conveyancing	Buyer	VAT on fees	
Transfer taxes	Buyer 1% on purchases under €1 million 2% on purchases over €1 million	Fixed scale in bands	

10.3 Taxes during the process of buying and selling a property

Table 24: Taxes related to buying and selling a property

	Relevance of the tax	When to pay the tax as part of the process of buying or selling	Tax amount (expressed in EUR as % of total purchase price <u>and</u> as a fixed amount if available)
Registration tax ⁵²	No		
Mortgage tax	No		
Cadastral tax	No		
Stamp tax	Yes	Stamp duty land tax must be paid before registration	1% on purchases under €1 million 2% on purchases over €1 million
Transfer tax (tax on the acquisition of property)	No		
Archives tax	No		
Other taxes	Capital gains tax	Seller may be liable but not on principal residence	The standard rate is 33% for disposals made on or after 5 December 2012.

10.4 Taxes during the process of renting and letting a property

Table 25: Taxes related to renting or letting a property

	Relevance of the tax	When to pay the tax in the process of renting or letting	Tax amount (expressed in EUR as % of total purchase price <u>and</u> as a fixed amount if available)
Registration tax	No		
Stamp tax	No		
Other taxes concerning the use of the property	No		

⁵² Registration taxes are public levies associated with the registration act. They are not to be confused with registration fees, i.e. the payment required by the registration office to carry out the registration. Registration fees are contained in Table 10.

11. Consumer situation in the market

11.1 Consumer rights

Table 26: Consumer rights

<p>Are there specific consumer rights in the context of real estate transactions and residential tenancies in your country? In particular: are residential tenants treated as consumers?</p>	<p><i>With respect to buyers</i></p>	<p>The buyer, if buying from a developer, has consumer rights e.g. under the Unfair Contract Terms in Consumer Contracts Regulations. This provides that terms which have not been individually negotiated may be subject to review by the Court to determine its fairness.</p> <p>The buyer has consumer rights in relation to accessing mortgage credit under the Consumer Protection Act 2007, the mortgage credit regulations etc.</p>
	<p><i>With respect to sellers</i></p>	<p>The seller will have protection under the Unfair Contract Terms in Consumer Contracts regulations.</p>
	<p><i>With respect to tenants</i></p>	<p>These Unfair Contract Terms in Consumer Contracts regulations appear to apply to residential tenancies. However, private tenants enjoy a special legal framework governing rights and obligations. Under the Residential Tenancies Act 2004 (as amended) a range of statutory terms governing the tenancy are implied by law into private tenancies. These govern basic matters including security of tenure, rent review, repair rights etc.</p>
	<p><i>With respect to landlords</i></p>	<p>The landlord will have protection under the Unfair Contract Terms in Consumer Contracts regulations.</p>
<p>Which existing marketing practices are non-compliant with national consumer legislation?</p>	<p>N/A</p>	
<p>Which existing marketing practices are non-compliant with EU consumer legislation?</p>	<p>N/A</p>	
<p>Are there existing marketing practices detrimental to consumers, even if not necessarily illegal, in both domestic and cross-border transactions?</p>	<p>Problems arise from the strong demand for properties, both to buy and to rent, lack of affordability.</p>	

11.2 Consumer complaints

Table 27: Consumer complaints	
How often do buyers and sellers complain due to arising legal issues (e.g. invalid contract, missing information, hidden defects, missing building permit, delay in payment)?	The Law Society provides for a complaints system by which the Society may investigate complaints against solicitors made by or on behalf of clients. In 2015, roughly 1,200 complaints were received stemming from a wide range of issues. The data does not map conveniently onto this question, however, the Complaints and Client Relations Committee of the Law Society have noted that 'Complaints related to the administration of estates feature prominently in the work of the committee – usually allegations of undue delay, lack of communication and overcharging.' ⁵³
How often do tenants and landlords complain due to arising legal issues (e.g. invalid contract, missing information, increase of rent, termination of the contract without proper notice)?	The Residential Tenancies Board has replaced the civil courts as the primary dispute resolution framework in the private rented sector. In 2015, the Board received 4,000 new applications for dispute resolution, marking a 19% increase from the previous year. ⁵⁴ The most common legal disputes in 2015 concerned invalid notice of termination (13%), deposit retention (13%), rent arrears (12%), breach of landlord obligations (9%), breach of tenant obligations (9%), standard and maintenance of dwelling (8%), overholding (8%) etc. ⁵⁵
Are consumer complaints against a professional service provider frequent, in particular as regards the fees and quality or service?	The Property Services Regulatory Authority is responsible for dealing with complaints against property service providers. In 2015, the Authority received 283 complaints against service providers, as compared with 362 complaints received in 2014. ⁵⁶ The most common source of dispute related to service provision (30%), retention of monies by service providers (16%), operating without a licence (15%). Other issues related to fees and outlay, ethical conduct, failure to have in place a letter of engagement or property service agreement and advertising. ⁵⁷
To whom can consumers complain (e.g. local or national administration, consumer protection agencies)? And through which means (e.g. formal letter, online form)? Is the procedure effective (in particular: average time needed for reply, solutions available for redress)?	The Property Services Regulatory Authority is responsible for dealing with complaints against property service providers. The Authority investigates complaints made against Property Services Providers (PSPs) and initiates investigations to ensure compliance. Any person can make a complaint, in writing to the authority – a complaint form is provided on the Authority's website. The authority is under a duty to investigate complaints and appoint an inspector. The inspector has wide powers to require disclosure of relevant information, to question any person for the purpose of the investigation, to carry out searches, to inspect accounts etc.

⁵³ Law Society of Ireland, Annual Report and Accounts 2014/15 (Dublin: Law Society of Ireland, 2015), p. 24.

⁵⁴ Residential Tenancies Board, Annual Report 2015 (Dublin: Stationary Office, 2015), p. 22.

⁵⁵ Residential Tenancies Board, Annual Report 2015 (Dublin: Stationary Office, 2015), p. 24.

⁵⁶ Property Services Regulatory Authority, Annual Report 2015 (Dublin: Stationary Office, 2015), p. 23.

⁵⁷ Property Services Regulatory Authority, Annual Report 2015, (Dublin: Stationary Office, 2015), p. 24.

Table 27: Consumer complaints

	<p>Where the Authority determines that the service provider has engaged in improper conduct it may impose a number of sanctions including:</p> <ul style="list-style-type: none"> • Issue a reprimand, warning, caution or advice to the service provider, • Revoke the service provider’s license, • Suspend the service provider’s license for a specified period, • Direct the service provider to pay: up to €50,000 into the Property Services Compensation Fund; up to €50,000 to the Authority towards the cost of the investigation; up to €250,000 to the Authority by way of a financial penalty, or • Any combination of the foregoing. <p>There is an independent appeals process.</p> <p>In terms of effectiveness, the Authority has drawn attention to a ‘large backlog’ of cases with roughly half of all complaints received between 2012 and 2015 still at the initial assessment stage.⁵⁸ The Authority has cited lack of resources as a factor contributing to this outcome.⁵⁹</p>
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⁵⁸ Property Services Regulatory Authority, Annual Report 2015 (Dublin: Stationary Office, 2015), p. 24.

⁵⁹ Property Services Regulatory Authority, Annual Report 2015 (Dublin: Stationary Office, 2015), p. 4.