

IRISH AUCTIONEERS & VALUERS INSTITUTE  
"THE VOICE OF IRISH PROPERTY"

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**8th June 2006**  
**AC/MW**

**Mr. Don O'Connor**  
**Secretary**  
**Business Regulation Forum**  
**Department of Enterprise, Trade & Employment**  
**Earisfort Terrace**  
**Dublin 2**

**Dear Mr. O'Connor**

I refer to your letter dated 25th ult. addressed to Mr James O'Halloran, our immediate past president, and take the liberty of responding on behalf of the Irish Auctioneers & Valuers Institute. The majority of firms in which our 2,000 or so members are engaged fall into the small category, with only a handful of the larger national agencies creeping into the medium category, with perhaps a couple of hundred employees each.

The Auctioneering profession, very much at the request of the IAVI, will soon be subject to proper State regulation, which is necessary because of the inconsistent licensing regime currently in place and the absence of any State supervision of those who practice estate agency without the required licence. Mandatory education & continuing professional development and mandatory professional indemnity insurance are among the benefits that will flow from legislation to be enacted in 2007.

The JAVI is not therefore against regulation when it is required and sees the need for a State regulatory role in a number of areas. However, in the area of real property there are sound arguments for suggesting that in 21<sup>st</sup> century Ireland there is little need for the type of protections afforded to the majority of commercial property tenants under existing legislation. In most European countries it is open to the parties in commercial deals (all having access to proper advice) to make whatever type of lease arrangement they deem appropriate and, when the lease expires, no renewal rights accrue. In some countries, the powers of a landlord to eject a tenant should the tenant not be fulfilling the expectations under the lease, are very powerful indeed. While not recommending a full acceptance of this European model, we strongly believe that the Law Reform Commission should be asked to look afresh at this issue and to liaise with the property bodies and produce a model for commercial landlord and tenant rights that would prove more flexible for the modern age.

Our second area of concern relates to employment rights. To the majority of small business operators, these seem to be designed for the major employers. In a practical sense, it is impossible for small employers with key staff to fulfil their obligations under legislation without enormous cost. Key personnel in such firms are generally specialised and cannot be replaced, particularly on a temporary basis, for release for the many months of mandatory leave currently granted under legislation.

One of our members, who valued a particularly employee, had that individual out for three successive maternity leaves, on full pay, each followed by three full periods at the employee's own expense, for the employee to return and resign within a few months. Due to the particular role the employee was in, she could not be replaced while on leave, reducing efficiency and impacting negatively on profitability. Such restrictions are very damaging to our economy when multiplied across the entire small to medium sector.

I trust these limited comments will prove useful to your considerations.

Yours sincerely,  
ALAN COOKE  
Chief Executive

